Vellore Dist.Environment ... vs The District Collector Vellore ... on 30 January, 2025

2025 INSC 131

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2025
(Arising out of SLP (C) Nos. 23633 – 23634 of 2010)

VELLORE DISTRICT ENVIRONMENT MONITORING
COMMITTEE REP. BY ITS SECRETARY
MR. R. RAJEBDRAN ... APPELLANT(S)

VERSUS

THE DISTRICT COLLECTOR,
VELLORE DISTRICT & OTHERS ... RESPONDENT(S

WITH
CIVIL APPEAL No. OF 2025
(Arising out of SLP (C) No. 26608 of 2011)

ALL INDIA SKIN AND HIDE TANNERS AND
MERCHANTS ASSOCIATION ... APPELLANT(S)

VERSUS

LOSS OF ECOLOGY
(PREVENTION & COMPENSATION
AUTHORITY) REP. BY ITS MEMBER SECRETARY
AND OTHERS ... RESPONDENT(S

JUDGMENT

R.MAHADEVAN, J.

CHANDRESH Leave granted. Heard all the parties and also perused the materials placed before us, including status reports / affidavits / responses filed by them. For the sake of clarity and better understanding, this judgment has been divided into the following heads:

I. PREFATORY NOTE

2. Nature and its elements are worshipped as Gods since time immemorial. Our forefathers knew the importance of preserving the environment both for their own well- being and for the benefit of future generations. However, over time, human greed has led us to forget this wisdom, treating nature as expendable at our expense and that of future generations. The degradation of the natural resources and pollutions of different kinds have a cascading effect on the environment, which now is

a global issue and poses a threat to the very existence of our planet. Such degradation is the catalyst for the drastic climatic changes and challenges that we are facing now. The pollution and depletion of water resources, more particularly groundwater, is a foreseeable threat to all living beings. India produces 13 percent of the world's leather and the leather market in India is valued at approximately Rs.40,000 crores1. It is a key foreign exchange earning sector for India being the 2nd largest global exporter and provides employment to lakhs. Tannery clusters are often located in areas with limited opportunities for livelihood. Not only does this industry contribute significantly to the national economy, but the States of Tamil Nadu, Uttar Pradesh, West Bengal and Punjab also have heavy economic dependencies on it. Despite its economic importance, a heavy price is being paid by the residents of areas surrounding tanneries and the workers employed therein, particularly, in terms of health impact, land degradation and an overall decreased quality of life. For years, environmental CLRI Report degradation has been rampant and it is time that a final lid be put to such activities that degrade the environment in violation of law. While acknowledging the economic importance of the industry, this Court shall not be a mute spectator to the environmental consequences and the loss of life and health caused by the waste generated by tanneries. There is an urgent need to strike a balance between competing interests, evolving and implementing sustainable solutions. Development which threatens the existence will serve no purpose. The sustainable development is an imminent requirement. The policies of the States and the actions must thrive towards striking a balance between socio-economic development and preservation of the natural resources for the benefit of the future generations.

II. RELIEF SOUGHT

3. The challenge made in these appeals (arising out of SLP Nos.23633-23634 of 2010) is to the common order dated 28.01.2010 passed by the High Court of Judicature at Madras2, in WP Nos. 8335 of 2008 and 19017 of 2009, whereby, the High Court dismissed the first writ petition filed by the appellant herein viz., Vellore District Environment Monitoring Committee and disposed of the latter writ petition filed by the appellant viz., All India Skin and Hide Tanners and Merchants Association3. Besides, the AISHTMA Hereinafter shortly referred to as "the High Court" For short, "the AISHTMA" has preferred an appeal (arising from SLP(C)No.26608 of 2011) against the order dated 08.02.2010 passed by the High Court in dismissing W.P.No.22683 of 2009 filed by them.

4. For ease of reference, the reliefs sought in the aforesaid writ petitions are quoted below:

> W.P.No.8335 of 2008:
>
> To issue a Writ of Mandamus, directing the respondents to ensure that the compensation payable to all affected individuals/families as contained in the report and Award dated 07.03.2001 passed by the Loss of Ecology (Prevention and Payment of Compensation) Authority4 for the State of Tamil Nadu is paid and all industries in default being subject orders of closure and initiate proceedings under the Revenue Recovery Act, 1890, for recovery of compensation and that compensation be assessed for the further loss caused to individual/families from 31.12.1998 till date and implementation of appropriate scheme for reversal of damage to ecology and

infrastructure be effected within a reasonable time frame and to ensure that there are no discharges from any tanneries in and around Ambur and Vaniyambadi land/water body.

W.P.No.19017 of 2009:

To issue a Writ of Certiorari to call for the records relating to the order passed by the respondent / LoEA, dated 05.05.2009 with regard to the assessment of damage to ecology For short, "the LoEA" in Vellore District beyond 1998 and quash the same.

W.P.No.22683 of 2009:

To issue a writ of certiorari to call for the records relating to the award and report for Vellore District, dated 24.08.2009 passed by the respondent / LoEA and quash the same.

III. FACTUAL OVERVIEW

(A) GENESIS OF THE LITIGATION

5. Vellore District is one of the oldest and largest Districts in Tamil Nadu lying on the banks of River Palar. Palar River is the source of drinking water for 30 towns and 50 villages along its banks. This river which was celebrated in literature, poetry, music, is now sullied by the operation of industries, especially, the tanning industry, which has been discharging effluents and dumping solid waste directly into the river and its channels, thereby making it unfit for drinking or agricultural purposes. Tanning industries which are the main source of income for the Vellore District, convert animal hides and skins into leather. Around 45% of the total tanneries in India are located in Tamil Nadu. More than 600 tanneries are situated in various clusters of Vaniyambadi, Ambur, Ranipet, Pernambut in the Vellore District. Though these industries have significant socio-economic impacts through employment and earnings, they have gained a negative image in society due to the pollution they generate.

6. Leather processing involves a series of unit operations, including pre-tanning, tanning, and post-tanning/finishing. At each stage, various chemicals are used, and a variety of materials are expelled, in addition to 35 - 40 litres of water used per kilogram of hide processed. Moreover, excessive amounts of chemicals are used in treatment drums, and it has been reported that 50% of the chemicals used in these processes become wastewater or sludge. The tanning process is almost wholly a wet process that consumes high amount of water, estimated at 34 - 563 of water per ton of hides or skin processed with 85% of the total water consumed being discharged as wastewater. Processed water consumption and consequently wastewater effluent discharge varies greatly between tanneries, depending on the processes involved, raw

materials, and products. A survey5 reports that tannery wastewater is highly polluted in terms of suspended solids, nitrogen, sulphate, sulphide, chloride, Biological Oxygen Demand (BOD), Chemical Oxygen Demand (COD), and chromium. The tanning industries have been operating with little or no pollution control for more than a century. It was only after 1980 that the treatment of the tannery wastewater was carried out6.

[Mondal, N., Saxena, V. and Singh, V. (2005) Impact of Pollution due to Tanneries on Groundwater Regime. Current Science, 88, 1988-1994] Journal of Chemical and Pharmaceutical Sciences - Tannery process and its environment impacts a case study :

Vellore District, Tamil Nadu ISSN::0974-2115 (B) VELLORE CITIZENS WELFARE FORUM CASE

7. Highlighting the pollution caused by untreated effluents discharged by tanneries and other industries in the State of Tamil Nadu into the River Palar, which is posing a great threat to the ecosystem and resulting in the non-availability of potable water in the area, a Non-Governmental Organization viz., Vellore Citizens Welfare Forum filed a Public Interest Litigation in W.P.(C)No.914 of 1991 before this Court, praying to issue a Writ of Mandamus, directing the respondents therein viz., Union of India and the State of Tamil Nadu, to immediately pay adequate compensation to the victims of pollution and to those who lost their lives, food crops, vegetation, trees, agricultural land, wells and suffered severe hardship due to irresponsible and negligent act of polluting tanneries and recover the amount to be paid in compensation to the affected people from the polluting tanneries.

By judgment dated 28.08.19967, the said writ petition was disposed of by this Court with the following directions:

"1. The Central Government shall constitute an authority under S.3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by a retired judge of the High Court and it may have other members preferably with expertise in the field of pollution control and environment protection to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under 5.5 of the Environment Act and for taking measures with respect to the matters referred to in Cls. (v), (vi), (vii), (viii), (ix), (x) and (xii) of subsection (2) of Section 3. The Central Government shall constitute the authority before September 30, 1996.

Vellore Citizens Welfare Forum v. Union of India & others, AIR 1996 SC 2715 : 1996 (5) SCC 647

2. The authority so constituted by the Central Government shall implement the "precautionary principle" and the "polluter pays" principle. The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collector/District Magistrates of the area concerned. The Collector/District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families.

4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refused to pay the compensation awarded against him. This shall be in addition to the recovery from him as arrears of land revenue.

5. An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area.

6. We impose pollution fine of Rupees 10,000/- each on all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collector/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from the tanneries. The money shall be deposited, along with the compensation amount recovered from the polluters, under a separate head called "Environment Protection Fund" and shall be utilised for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. The pollution fine is liable to be recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 31, 1996 shall be closed forthwith and shall also be liable under the Contempt of Courts Act.

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed

> shall be executed by the State Government under the supervision of the Central Government. The expenditure shall be met from the "Environment Protection Fund"

and from other sources provided by the State Government and the Central Government.

8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.

9. We direct the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be reopened unless the authority permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.

10. The Government order No.213 dated March 30, 1989 shall be enforced forthwith. No new industry listed in Annexure-1 to the Notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to authority to direct the relocation of any of such industries.

11. The standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board."

8. In Paragraph 25 of the aforesaid judgment, this Court further observed as follows:

> "We have issued comprehensive directions for achieving the end result in this case. It is not necessary for this Court to monitor these matters any further. We are of the view that the Madras High Court would be in a better position to monitor these matters hereinafter. We, therefore, request the Chief Justice of the Madras High Court to constitute a Special Bench "Green Bench" to deal with this case and other environmental matters. We make it clear that it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by us. We may mention that "Green Benches" are already functioning in Calcutta, Madhya Pradesh and some other High Courts. We direct the Registry of this Court to send the records to the registry of the Madras High Court within one week. The High Court shall treat this matter as a petition under Art.226 of the Constitution of India and deal with it in

accordance with law and also in terms of the directions issued by us. We give liberty to the parties to approach the High Court as and when necessary."

(C) AFTERMATH OF VELLORE CITIZENS WELFARE FORUM JUDGMENT

9. On transfer, the case was re-numbered as W.P.No.13433 of 1996 and pursuant to the directions of this Court, the Loss of Ecology (Prevention and Payment of Compensation) Authority8 was constituted by the Government of India, vide its Notification in S.O.671 (E), dated 30.9.1996 with the Honourable Mr. Justice P. Bhaskaran, a retired Judge of the High Court, as its Chairperson, inter alia directing to assess the loss to the ecology/environment in the affected areas and also to identify the individuals/families who had suffered because of the pollution and determine the compensation payable to them.

10. By Award dated 07.03.2001, the LoEA identified 29,193 affected individuals /families and determined the compensation at Rs.26,82,02,328/- for the period from 12.08.1991 to 31.12.1998 in respect of 15,164.96 hectares across 186 villages in 7 Taluks of Vellore District. Further, it was made clear that the liability of the polluting industries For short, “the LoEA” to compensate the affected individuals/families would continue beyond 31.12.1998 until the damage caused to the ecology and environment by pollution is reversed.

11. Subsequently, the aforesaid award, particularly with reference to apportionment of compensation, was challenged by some of the aggrieved parties in W.P.No.512 of 2002;

and the validity of the Notification dated 30.09.1996, appointing the LoEA was also challenged by the AISHTMA by filing W.P.No.7015 of 2000. The High Court disposed of the said writ petitions by order dated 22.03.2002, the relevant portion of which reads as follows:

"This matter relates to the polluters-paying the liability. Pursuant to the enquiries made by the authority, which has been constituted consequent to the judgment rendered by the Supreme Court in Vellore Citizens' Welfare Forum Vs. Union of India (1996) 5 SCC 647, amounts have been determined, and this writ petition has been filed by the Association consisting of 334 tanners. Now, all the learned Senior Counsel appearing for the petitioner submit that they are not contesting the quantum fixed by the authority, but because of the financial strain, the entire amount cannot be deposited in lump sum. Facility to pay in installments is, therefore, pleaded. The Number of tanneries as stated above are 334, of which 151 tanneries are smaller ones.

Likewise, there are other two categories also. Having regard to the plea made to facilitate the payment in installments and having regard to the facts and circumstances and also taking the welfare of the affected parties into consideration, as the challenge now ends, because of the

acceptance of the persons manning tanneries to pay the amount as determined by the authority, the installments as fixed as follows:

> Tanners (151 in number) who are ordered to pay up to Rs.2 lakhs, have to pay the amount in a bi-monthly installments of Rs.21,22,672/- each. For the category, whose liability is between Rs.2 lakhs and Rs.20 lakhs (159 in number), the amount shall be payable in 12 bi-monthly installments of Rs.88,35,675/- each. The third category (24 in number), whose liability is over and above Rs.20 lakhs shall pay the amount in 18 bi-monthly installments of Rs.96,37,863/- each. The above schedule is effective from 1st April 2002 and the first of such payment shall be made on or before loth April 2002, and every bi-monthly installment shall be made after two months thereof, for instance, on or before 10th June 2002, and so on. It is made clear that in default of payment of even one bi-monthly installment, the Collector shall be entitled to realize the balance amount in lump sum from the concerned defaulters. It is needless to mention that this arrangement facilitating the payment in installments is in modification of the earlier order passed on 22.1.2002. The writ petition is disposed of accordingly."
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> 12. Thereafter, the Vellore Citizens Welfare Forum preferred WP No.23291 of 2006 for a mandamus directing the Ministry of Environment and Forest and the State of Tamil Nadu to make the LoEA a permanent body for the State of Tamil Nadu and to appoint a Managing Committee, Chairperson and members to the same. On 20.12.2007, when the said writ petition came up for hearing, the High Court passed the following order:
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> "Learned counsel appearing for the Loss of Ecology Authority states that the Authority will consider all the applications filed before the cut-off-date, which are pending as well as the applications which are filed after the cut-off-date and decide them in accordance with law and grant compensation wherever the case is made out.
>
> Adj to 02.1.2008 to consider the report of the Loss of Ecology Authority relating to location of the hazardous units covered under G.O.Ms.No.213, dated 30.3.1989."

13. In the meanwhile, alleging that no scheme has been implemented for the reversal of the damage caused to the ecology and environment and that no compensation has been paid for the period from 31.12.1998, the Vellore District Environment Monitoring Committee filed W.P.No.8335 of 2008 as a Public Interest Litigation. Along with the said writ petition, a Miscellaneous Petition in M.P.No.1 of 2008 was also filed praying to direct the LoEA to close down all industries that have not complied with the report and Award dated 07.03.2001, pending disposal of the writ petition. The High Court passed the following order, on 10.04.2008 in the said miscellaneous petition:

> "(i) The Authority shall make enquiries as to whether the polluters have complied with the condition after 1999 as per the award and fix the compensation payable within four months.

(ii)The Authority shall assess the damage caused to the ecology since 1999.

(iii)The Authority shall frame a scheme for reversal of the damage to ecology within eight weeks and issue the same to the District Collector, who is directed to implement the scheme.

(iv)The District Collector shall recover the compensation as assessed by the earlier order from the polluters and pay the same to the affected parties and shall file a status report into this Court. The District Collector shall also strictly and expeditiously comply with the scheme framed and the directions of the Authority."

14. Seeking to vacate the aforesaid order dated 10.04.2008 passed in MP.No.1 of 2008 in W.P.No.8335 of 2008, the AISHTMA filed M.P.No.2 of 2008, in which, the High Court inter alia directed the LoEA to hear the AISHTMA before proceeding with the exercise directed in the order dated 10.04.2008. The High Court further clarified that the said directions should not be construed by the LoEA as conclusive findings, but should be taken up only to enable it to hold / conduct an enquiry. Thereafter, upon issuing due notice to all the parties, the LoEA passed the order dated 05.05.2009 assessing the damage caused by the tanning industry to the ecology beyond 1998 in the Vellore District. Aggrieved by the same, the AISHTMA preferred WP.No.19017 of 2009 to quash the said order dated 05.05.2009.

15. Consequently, the LoEA passed the order and award dated 24.08.2009, determining a total sum of Rs.2,91,01,278/- as compensation payable to 1377 affected individuals by the same 547 polluters as identified in the original award dated 07.03.2001. Challenging the same, the AISHTMA preferred W.P.No.22683 of 2009 before the High Court.

16. After hearing all the parties, the High Court passed the common order on 08.02.2010 in WP.Nos.8335 of 2008 and 19017 of 2009 and the operative portion of the same reads as follows:

"18. In view of the above stated reasons, we do not find any reason to entertain W.P.No.8335 of 2008 and therefore, the same is liable only to be dismissed. Accordingly, W.P.No.8335 of 2008 is dismissed and the consequential proceedings initiated and the order dated 5.5.2009 passed by the third respondent therein viz., the Loss of Ecology (Prevention & Payment of Compensation) Authority, pursuant to the directions in the said writ petition, also stand quashed. In view of the dismissal of W.P.No.8335 of 2008, we do not propose to go into various other aspects argued on either side in respect of the other writ petition in W.P.No.19017 of 2009, since by the dismissal of W.P.No.8335 of 2008, the impugned order in W.P.No.19017 of 2009 is already held to be invalid. With this observation, W.P.No.19017 of 2009 stands disposed of...." By separate order dated 08.02.2010, WP No.22683 of 2009 filed by the AISHTMA came to be dismissed by the High Court, observing that there was no infirmity or illegality in the report and award passed by the LoEA on 24.08.2009.

17. Being dissatisfied with the orders dated 08.02.2010 so passed by the High Court, the appellants are before us with the present appeals.

IV. RECORD OF PROCEEDINGS AND AFFIDAVITS/REPORTS FILED BY THE RESPONDENT AUTHORITIES

18. These matters were listed before this Court right from 2010 and various directions have been passed from time to time and in compliance of the same, the authorities have filed affidavits/ reports then and there, to which, the contesting parties filed their respective replies. For effective adjudication of the issue involved herein, we may state the relevant orders and the affidavits / reports filed by the parties, which read as under:

> 18.1. Keeping in view the fact that the High Court had passed order as early as in 1998 for payment of compensation and the directions given by this court from time to time, this Court by order dated 20.02.20139, directed the State Government to pay the amount of Rs.4.48 crores to the farmers within a period of eight weeks and recover the same from the defaulting tanneries.
>
> 18.2. Pursuant to the order of this Court dated 20.02.2013, the Additional Chief Secretary to Government, Environment & Forest Department, Govt. of Tamil Nadu, in his supplementary affidavit dated 29.11.2013 stated that total compensation amount to be collected from the 547 tanneries as determined by the LoEA vide two awards (Rs.26.82 + We have heard Shri T. Mohan, learned counsel for the petitioner, Shri Gurukrishna Kumar, learned Additional Advocate Genera1 for the State of Tami1 Nadu and Shri Rajagopalan, learned senior advocate for the petitioners in the connected special leave petition. We have also perused supplementary affidavit dated 19.02.2013 of Shri P. Sankar, Collector, Vellore District, which reveals that a sum of Rs. 4.48 crores is still to be paid to the farmers.

Keeping in view the fact that the High Court had passed order as early as in 1998 for payment of compensation and the directions given by this Court from time to time, we direct the State Government to pay the amount of Rs.4.48 crores to the farmers within a period of eight weeks from today. For consideration of other issues, the cases are adjourned to 17.04.2013. It is needless to say that the State Government shall be free to recover the amount from the defaulter tanneries. Rs.2.91 crores) was 29.73 crores; the amount to be collected from the tanneries for reversal of ecology was Rs.3.66 crores; the total amount recovered as on 22.08.2013 was Rs.27.67 crores; and thus, there was a balance of Rs.5.72 crores, out of which, Rs.4.85 crores were recoverable from the polluting units; after taking earnest steps through the revenue machinery, Rs.1.13 crores were collected and 63 tanneries cleared their balance; and as a result, the remaining amount to be collected is Rs.3.72 crores. The affidavit further proceeds to state that out of 547 tanneries, 359 tanneries cleared their balance, 168 tanneries partially paid their dues and the amount due from 20 tanneries could not be collected in view of the court stay order, closure of tanneries running in the rented premises, bank attachments, and liquidation proceedings; however, the Tahsildars were instructed to invoke Revenue Recovery Act and take qualitative steps to identify the defaulters and collect the balance

amount. It was also stated that in order to comply with the order dated 20.02.2013, the Government by G.O(Ms)No.57, Environment and Forests (EC.1) Department, dated 19.04.2013, sanctioned an advance sum of Rs.2.77 crores and disbursed the same along with sum of Rs.1.71 crores collected by the District Administration, to the affected farmers and that, the remaining amount of Rs.1.15 crores is available with the Divisional officers and the same would be disbursed as and when the issues are settled either through court of law or out of court.

18.3. This Court by order dated 05.08.2014, directed the TNPCB and its authorities to file an affidavit within a week giving the time frame by which they intended to stop the pollution of Palar River. Further, liberty was given to the TNPCB to take necessary action against the industries causing pollution in the river and if required, to seal such industries. Pursuant to the aforesaid order dated 05.08.2014, the TNPCB filed a detailed status of 8 CETPs and 26 IETPs in the Vellore District by its report dated 13.08.2014. However, this Court by order dated 09.09.201410 directed the TNPCB to make fresh inspection regarding the pollution of the Palar River and file a status report within four weeks. In compliance of the same, the TNPCB carried out inspection of six stretches of Palar River and filed its report on 28.10.2014.

18.4. By order dated 20.02.201511, the Central Pollution Control Board (CPCB), New Delhi, was impleaded as a party Respondent to the present appeals and was directed to It appears that second respondent - Tamil Nadu Pollution Control Board has given a clean chit to the tanning industries that they are not causing any pollution to the Palar River passing through the District of Vellore. It is not clear from the report whether there is any pollution in the Palar River /water bodies and its tributaries and if there is any pollution the resources through which the pollution is caused. Second respondent - Tamil Nadu Pollution Control Board is directed to make fresh inspection and file a status report along with copy of the inspection report about the pollution of the Palar River within four weeks.

Learned counsel for the respondent no. 2 The Tamil Nadu Pollution Control Board reported that no pollution is being caused by the leather and other industries situated nearer to Palar river in the district Vellore, Tamil Nadu. Learned counsel for the petitioner contended that there is still pollution in the river Palar. On the directions of the court, the Tamil Nadu Pollution Control Board-second respondent made inspection and submitted report with regard to stretches 1, 2, 3, 4, 5 and 6 of the river Palar. It is reported that there is no more pollution in river Palar within the stretches aforesaid at the instance of the industries. However, according to the learned counsel for the petitioner, there is still pollution in the river Palar due to which some of the persons recently get affected.

In view of the contradictory stand taken by the parties, we are of the view that the report should be obtained from Central Pollution Control Board, New Delhi. We accordingly, implead Central Pollution Control Board through its Chairman, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, New Delhi-110032 as party respondent.

Let notice be issued on the Central Pollution Control Board returnable in four weeks. Dasti, in addition, is permitted.

On their appearance, the Court may direct them to make inspection of river Palar and the industries, municipalities and other sources discharging affluents in the river at various locations of the Vellore district and submit report, analysis along with maps. The State Pollution Control Board will cooperate the Central Pollution Control Board.

inspect River Palar and the industries, municipalities and other sources discharging effluents into the river at various locations of the Vellore District and submit a report, analysis, along with maps.

18.5. Subsequently, by order dated 07.04.2015, this Court directed the learned counsel appearing for the CPCB to conduct an inspection and submit a report with regard to the stretches 1, 2, 3, 4, 5 and 6 of River Palar, including the Common Effluent Treatment Plant (CETP) within three weeks.

18.6. In compliance of the same, the Officials of the CPCB carried out an inspection of 124.5 km of River Palar stretches, 8 Common Effluent Treatment Plants (CETPs) and 26 Individual Effluent Treatment Plants (IETPs) in Vellore District, Tamil Nadu and presented a report on 12.05.2015.

18.7. On 04.12.2017, when the matters were taken up for consideration, it was represented before this Court that at present, the pollution is due to the non-treatment of municipal solid waste and hence, this court directed the Additional Advocate General to file a report on behalf of the State regarding the action taken with respect to solid waste management. 18.8. On 19.11.2024, after hearing arguments of the learned counsel appearing for all the parties, this Court directed the State Pollution Control Board and the Central Pollution Control Board to file a report regarding the current situation of the pollution alleged to have been caused by Tanneries. In compliance of the same, the TNPCB and CPCB filed their respective reports on 03.12.2024 and 09.12.2024.

18.9. The report of TNPCB dated 03.12.2024 proceeds to state that (i)the quality of River Palar is not deteriorating further since 2014; (ii)the average TDS of surface water in the year 2023 at the entry of the Tirupathur District at Kodayanchi village is 591 mg/l and at the exit of the Ranipet District (stretch 6) at Sathambakkam Village is 1416.5 mg/l and in between the stretches, there is an increase of TDS level observed at three locations, which might be the influence of groundwater quality, disposal of sewage from urban local bodies, dumping of municipal solid waste, etc.; (iii)All the CETPs and IETPs that are located along the stretch of the Palar River have provided ZLD system and are operating the same and TNPCB is continuously monitoring the operation of the same; (iv)CEPI score index evolved in Ranipet was found to be reduced over the years from 78.13 to 18.4 and have now fallen under the category “other polluted areas from critically polluted area”; (v)Along the Palar River stretch, only Ambur Municipality and Vellore Corporation have provided Sewage Treatment Plants (STPs) to treat the sewage generated from their respective Urban Local Areas, However, the untreated sewage form the urban local areas are discharged majorly through 51 outfalls located along the River Palar; (vi)the urban local bodies have provided the Micro Compositing Centre (MCC) and Resource Recovery Centre (RRC) for handling and processing of day-today Municipal Sold Wastes generated in the urban local areas and carrying out “Bio Mining Process” to remove the legacy wastes. However, the Municipal Sold Wastes are dumped along the Palar River banks;

(vii)Groundwater is suitable for various agricultural activities; and (viii)the yield of cereals such as Rice, Jowar (Cholam), Bajra (cumbu) and Ragi in the District of Ranipet, Vellore and Tirupathur are in the range of State Average Yield.

18.10. The report of CPCB stated that it has been filed based on the monitoring of Groundwater (infiltration wells) and Outfalls (drains)/surface water along the Palar River carried out by TNPCB from time to time and the pollution control measures adopted by Common Effluent Treatment Plants (CETPs) and Individual Effluent Treatment Plants (IETPs) of Tannery units collected from TNPCB. It was further stated in the said report that at present, there are 30 tannery units, out of which 10 units are closed either on its own or directions issued by CPCB and 20 units are operational and that all the 20 units have upgraded Individual Effluent Treatment Plants (IETPs) by installing Multiple Eject Evaporators (MEE) combined with Agitated Thin Film Dryers (ATFD) as part of their Zero Liquid Discharge (ZLD) systems, replacing earlier solar evaporation ponds. This upgradation in treatment system has enhanced salt recovery efficiency and optimized waste management processes. Regarding CETPs, the report states that presently, there are 434 tanneries connected to 8 CETPs and all 8 CETPs in the area have upgraded the ZLD system with improved salt recovery and sludge management and they have installed OCEMS and connected to CPCB and TNPCB servers. Regarding the groundwater (Infiltration Wells)/ monitoring well located along the Palar River, the report states that except for one location (Chakkaramallur in stretch 6), there is an increasing trend of COD concentration ranging from 8 to 296 mg/L; and TDS (2020 to 3552 mg/L) at 8 locations, Total Hardness (810 – 1200 mg/L) at 3 locations, Chloride (2275 mg/L) at one location and Alkalinity (910 mg/L) at one location, are not meeting permissible drinking water standards; and that, BOD concentration was found in the range of 2-8 mg/L at all locations of infiltration wells and similar trend was noticed in all the years (2021-2024). However, in monitoring well at Girisamudram, BOD was noticed to be ranging from 6 - 28 mg/L for the year 2023 -2024. That apart, the findings relating to outfalls (drains) in the River Palar are summarized in the report as under:

> (i)In most of the drains (outfalls) in Stretches 1, 2, 3 & 5, BOD (32.8 - 464 mg/L) and COD (263 -1848 mg/L) are exceeding the General Standards for discharge of Environmental Pollutants to inland surface water, and the concentration of Sulphide (4 -

115 mg/L) is observed higher as compared to 2015 monitoring results.

(ii)At a few locations (Stretches 1, 2 & 3), the levels of Chloride (1150 - 2026 mg/L) is also observed higher as compared to 2015 monitoring results.

(iii)BOD concentration at 20 outfalls are meeting the general discharge standard, as against 5 outfalls in 2015, which indicates there is a decrease in number of outfalls in which exceedance of BOD standard was reported in 2015.

(iv)In the year 2015, TDS at 19 outfalls was ranging from 2104 – 7088 mg/L, but at present high TDS concentration (2156 – 4320 mg/L) found only in 9 outfalls. It indicates improvement in 27

outfalls in comparison with the year 2015.

(v)The concentration of TDS at the outfall (inlet of lake) has decreased from 7088mg/L (2015) to 2874mg/L (present). Similarly, the concentration of TDS at the outfall (outlet of lake) has also decreased from 4044 mg/L (2015) to 3796mg/L (present).

(vi)Higher Chloride concentration (1016- 1938mg/L) was found in 11 outfalls in the year 2015 and at present Chloride concentration is in the range of 1150 – 2026 mg/L in 04 outfalls only, indicating improvement in 32 outfalls.

(vii) In comparison with 2015, COD concentration as well as exceedance in number of outfalls remains same.

As far as sewage management is concerned, the report states that STP is constructed in two Municipalities i.e. Ambur & Ranipet and is being operated and thus, the untreated sewage directly joins River Patar from Vellore, Vaniyambadi, Melvisharam, Arcot & Walajahpet Municipal limits and treated sewage from Ambur & Ranipet towns.

V. CONTENTIONS OF THE PARTIES VELLORE DIST. ENVIRONMENT MONITORING COMMITTEE / APPELLANT IN S.L.P.(C) NOS.23633-23634 OF 2010

19. According to the learned counsel, the compensation amounts fixed vide award dated 07.03.2001 by the LoEA were paltry, ranging from Rs. 1,000 per hectare per year (Rs. 83 per hectare per month) to Rs. 14,000 per hectare per year (Rs.1,167 per hectare per month). Furthermore, the measures to recover these amounts were also ineffective. When separate awards were passed for farmers who were left out in the initial assessment pursuant to the order of the High Court in WP No. 23291 of 2006, culminating in an award dated 24.08.2009, the LoEA chose to compensate the farmers from the interest accumulated and compensation deposited before it, as well as from the funds deposited for ecological restoration, instead of collecting the same from the identified errant industries. This resulted in one farmer being compensated from the amount rightfully due to another. Farmers continued to face the brunt of pollution, and received diminished if not nil returns from agricultural lands for decades. Moreover, compensation was frozen for the period upto 1999 and no fresh assessment of compensation for the period beyond 31.12.1998 was undertaken as the pollution continued unabated after that date.

20. It is also stated that the details of the persons affected, who had not received compensation either in part or full, were already available as part of the record in the award dated 07.03.2001. The District Collector was the authority disbursing compensation. The appellant had sought only a mandamus to the revenue authorities to collect the balance compensation amount still due from the identified industrial unit and distribute the same to the farmers identified by the LoEA. However, without properly appreciating the claim of the appellant, the High Court dismissed the writ petition filed by them.

21. The learned counsel further submitted that certain polluters were yet to make the necessary payments in accordance with the award dated 07.03.2001. In fact, the High Court in its order dated 30.10.2008 in MP No. 2 of 2008 in WP No. 8335 of 2008 had noticed this aspect and directed the District Collector to recover the award amount from defaulting members of AISHTMA within four weeks. This court vide order dated 20.02.2013, in SLP (C) Nos. 23633-23634 of 2010 directed the State Government to pay a sum of Rs 4.48 crores to the farmers and to recover the same from the default tanneries. But, till date, the compensation amount has not been paid to all the affected parties.

22. It is submitted that the LoEA in its award dated 07.03.2001 held that the liability to pay compensation continues beyond 31.12.1998 until the damage caused to ecology is reversed. In its subsequent award dated 24.08.2009, the LoEA determined compensation for the affected individuals / families who had not been included in the first award, holding that 'Polluter Pays Principle' clearly states that the polluter remains to be liable till the ecological damage caused by him is restored; and moreover, the polluter's liability is an absolute liability. That apart, by quashing the order of the LoEA dated 05.05.2009, the High Court has denied an opportunity to effectively assess compensation beyond 1998.

23. The learned counsel stated that 14 years after the order came to be passed by the High Court, pollution caused by the industries continues unabated, and there has been no assessment of the liability of the industries beyond 31.12.1998 for the damages they have caused to ecology, citizens, farmers and their livelihoods. Therefore, it is contended that once the fact of continuing pollution is demonstrated, as a corollary, liability of polluters both for the closure of their illegal units, and payment of remediation and compensation to the affected persons continues; and that, the damage caused to the environment and ecology cannot be reversed as long as the pollution continues.

24. The observation of the High Court that the industries cannot be blamed for pollution on account of non-implementation of the scheme for reversal of ecology, despite the industries depositing Rs.5 crores, is unmindful of the fact that pollution is still continuing, and any meaningful scheme for reversal of ecology can be implemented only when the pollution ceases and hence, the same is unsustainable.

25. The learned counsel submitted that after thorough analysis, the LoEA constituted by the Central Government in terms of the judgment of this Court in Vellore Citizen Welfare Forum (supra), clearly found that pollution was still being caused by the tanneries and the level of pollution due to the discharge of effluents was exceeding permissible limits and the steps taken by the industries to install reverse osmosis plants were at the initial stage with no plant having become operational so far. Consequently, the LoEA passed the order dated 05.05.2009 fixing the liability on the industries to pay compensation to the affected families / individuals. Thus, the order passed by the LoEA based on specific evidence and the actual state of the pollution, cannot be faulted.

26. According to the learned counsel, the liability of the leather tanneries for the pollution caused by them did not cease in the year 1998 by merely paying the compensation amount. The polluting industries are liable to reverse the damage to the environment and ecology as long as the tanneries

continue to pollute the environment on

(a) polluter pays principle and (b) precautionary principle, both of which have been recognized by this Court. The industries, which are still polluting the environment, cannot absolve themselves of their liability, merely on the ground that some payment was made by them to the Government in terms of directions of this Court. In such circumstances, the order of dismissing the writ petition passed by the High Court stating that the claim lacks necessary particulars or details and is based on mere allegations, is arbitrary and illegal.

27. According to the learned counsel, in order to protect major water sources in the State, the Government of Tamil Nadu issued G.O.(Ms) No. 213 dated 30.03.1989, thereby imposing a total ban on the establishment of highly polluting industries within 1 kilometre of the embankment of water bodies. Highly polluted tanneries were listed in S.No.2 of Annexure-I and the River Palar was listed in S.No.5 of Annexure-II of the said G.O. Further, this Court in Vellore Citizens Welfare Forum (supra), at paragraph 25(10) pointed out that "The Government Order No. 213 dated March 30, 1989 shall be enforced forthwith and that, no new industry listed in Annexure-I to the Notification shall be permitted to be set up within the prohibited area. The authority shall review the case of all the industries which are already operating in the prohibited area and it would be open to authority to direct the relocation of any of such industries". Subsequently, the Government issued G.O.(Ms).No.127 dated 08.05.1998 expanding the above G.O mandating that highly polluting industry (RED category) shall not be permitted within 5 kilometres from rivers Pennaiyar, Palar, Vaigai and Thamirabarani, and thereafter, passed G.O.(Ms).No.223 dated 02.09.1998 modifying the said G.O.(Ms)No.213 mandating that the industries specified in Annexure I of the same, should not be permitted within 5 kms from the embankment of the rivers Cauvery, Pennaiyar, Palar, and Vaigai. However, the State Government has neither prevented the establishment of new activities in the prohibited area nor has it directed the relocation of units that existed on the date of the G.O. In fact, all eight Common Effluent Treatment Plants (CETPs) and several tanneries are located within the prohibited distance from the river. As such, the siting of the industries is illegal and their proximity to the river has exacerbated the impact of the pollution caused. Hence, the operation of CETPs and Tanneries, without the mandatory consent of the Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974, the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 (now the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016) and in violation of the aforementioned G.Os., must be stopped.

28. It is further submitted that despite the judgment of this Court in Vellore Citizen Welfare Forum (supra) as well as the High Court, the pollution caused by the tanneries continued. Eight CETPs (set up with Government assistance to treat effluent from multiple tanneries) and the Individual Effluent Treatment Plants (IETPs) (established by some tanneries to treat their own effluents) continue to discharge effluent into the environment, particularly, into the River Palar. Even the treated effluent fails to meet the standards prescribed by the TNPCB. Thus, Zero Liquid Discharge (ZLD) has not been achieved till date, and the effluent continues to pollute groundwater through discharge from various components of the effluent treatment system, in violation of the principle of sustainable development.

29. The learned counsel ultimately submitted that 28 years have lapsed since the judgment of this court in Vellore Citizens Welfare Forum (supra), where an opportunity was granted to the polluters to cease their illegal activities and operate without causing pollution. Crores of rupees of Government aid were sanctioned for the construction of CETPs, which were illegally sited in close proximity to the river, exacerbating the impact of pollution. The TNPCB, despite noticing violations and recording pollution, has failed to take any action for decades. Even the fact of the violation was not placed before this Court by the respondent authorities. Hence, no equities lie in favour of the CETPs and tanneries as they have profited at the cost of the environment and the thousands of farmers whose lives and livelihood has been destroyed.

30. With these submissions, the learned counsel prayed to set aside the order of the High Court dated 28.01.2010 passed in the writ petitions and consequently, direct the authorities concerned to close the CETPs and tanneries which have continued to discharge effluents and pollute the environment, without achieving ZLD and also assess and award compensation to the affected persons till the damage caused is reversed and the health of ecology is restored and further direct the TNPCB to prosecute the polluting units for violation of sections 24 and 25 of the Water (Prevention and Control of Pollution) Act, 1974.

AISHTMA / RESPONDENT NO.4 IN SLP (C)NO.23633 OF 2010 & RESPONDENT NO.3 IN SLP (C)NO.23634 OF 2010

31. It is submitted that Tanneries have fully paid the total amount of Rs.33.39 crores (Compensation amount of Rs.29.73 crores + Reversal of Ecology of Rs.3.66 crores) determined by the LoEA and the same has been disbursed by the concerned authorities and hence, no further amount is payable by the industries. However, without verifying this fact, the appellant after a period of 14 years, has alleged before this Court that a balance of Rs.15 crores is still payable by the AISHTMA. Even the Government of Tamil Nadu in its supplementary affidavit dated 29.11.2013, stated that after making the full payment as assessed by the LoEA, balance of Rs.1.15 crores is available with them and the same would be disbursed as and when the issues are settled either through court or out of court.

32. It is further submitted that the LoEA in its report titled " Report & Award – Part II for Vellore District in Tamil Nadu on Reversal of Damaged Ecology" dated 27.09.2001 Annexure IV, recommended 7 schemes to be implemented by the industries and 8 schemes to be implemented by the government, to prevent further damage to the environment. The LoEA directed the industries and the government to implement these schemes respectively. Accordingly, the industries have diligently adhered to the suggested recommendations and continues to do so in order to ensure a clean environment. As regards the other eight schemes, it is for the government authorities to implement the same, including the disposal of 150000 Tonnes of solid wastes containing about 3% sodium chromate dumped by the Tamil Nadu Chromates and Chemicals Industries, Ranipet.

33. It is submitted that the appellant in SLP (C) Nos.23633 -23634 of 2010 has approached the issue with a "tunnel vision" on the tannery industry, thereby ignoring all other industries and contributors to pollution in the river. Referring to the affidavit filed by the TNPCB, and the report of the CPCB, it is stated that one of the major contributors of pollution is untreated sewage and dumping of solid

municipal wastes in the river and its surroundings. Placing reliance on the report of the CPCB, it is submitted that none of the Urban areas in Vellore District have sewage treatment plants and the entire untreated sewage is being let out either through the outfalls or drains eventually leading to the river. Further, in both the urban areas and villages throughout the district many outfalls carry the untreated sewage through organized Municipal Drainage Systems, thereby discharging the untreated sewage directly into the river. Moreover, it is not only the untreated sewage but the total solid wastes garbage generated in the towns are dumped in the river. Despite the responsibility of the municipalities to treat sewage, no steps have been taken, even though the LoEA has framed a scheme way back in 2001. Consequently, the untreated sewage continues to be released directly into the river.

34. It is also submitted that the River Palar, which once had a breadth of 2000 Ft. has been reduced to 200 Ft. in many areas due to encroachments on both banks. That apart, even sand mining is rampant in the district thereby causing irreparable damage to the river. It is reported that sand had been dug up to a depth of nearly 30 ft. As a result, groundwater which was once available at 200 ft, is now only found below 1000 ft. for water. It is further submitted that agriculture activities can easily be noticed in many areas of the river, thereby causing inorganics like fertilizers etc., to directly penetrate into water sources. Thus, there are many polluters other than the tannery industries that are causing pollution to the river.

35. Adding further, the learned counsel submitted that the leather industry plays a pivotal role in the Indian economy. With this, India has strong skilled manpower and innovative technology. The country has an eco-sustainable tanning base and modern manufacturing units. According to statistics, approximately 50 thousand workers are employed in the tanning industry and about 1.5 lakhs from the allied Industry & indirectly about 4 lakhs workers are employed across the Vellore district, including leather garment manufacturing, with the majority concentrated in towns like Ambur, Vaniyambadi, Ranipet, Visharam, and Pernambut. Further, the percentage of women in the leather industry in Vellore District, is considered to be high, with estimates suggesting that women make up a significant portion of the workforce, often exceeding 80%, which is due to the dominance of the footwear sector. Therefore, Tannery industry contributes significantly to the economy and employment in the region.

36. It is further submitted that this court, in Vellore Citizen Welfare Forum (supra), directed all Tanneries in 5 Districts of Tamil Nadu to set up Common Effluent Treatment Plants (CETPs) or Individual Effluent Treatment Plants (IETPs), and those connected with CETPs to install additional Pre-treatment Systems in the tanneries and further directed to obtain Consent of the Board to operate. During 1990's, the Ministry of Environment & Forests (MoEF), Government of India, initiated an innovative financial support scheme for CETPs to ensure the growth of the small and medium entrepreneurs (SMEs) in an environmentally compatible manner. The Tanning Industry took up the responsibility and started setting up CETPs. By the end of 1995/1998, eight CETPs were set up in Vellore District apart from the Individual Treatment Plants (IETPs) set up by large industries for isolated tanneries which could not be connected to CETP. All the above CETPs and IETPs hence adopted the Best Available Technology (BAT) of the time as suggested, approved and monitored by the TNPCB. It is worth mentioning that no Tannery in Tamil Nadu was operating

without a proper Treatment Plant from 1998. Further the funding from Government Agencies for the Up-gradation Projects in the CETPs were approved by the TNPCB.

37. It is also submitted that this respondent entered into an MoU with NEERI (National Environmental Engineering Research Institute) and CLRI (Central Leather Research Institute) to provide technical guidance in meeting the discharge norms prescribed by the TNPCB. The industry in order to demonstrate its bona fide intentions towards establishment of sustainable ecology in their surroundings, voluntarily accepted to set up ZLD for tanneries, though the ZLD concept was not a statutory requirement. Under the ZLD System, pre-treated effluent from Member Tanneries is conveyed to the CETP and the entire effluents received from member tanneries are treated, water recovered are reused and not a drop of water is discharged from the CETPs thus achieving ZLD. Hence, ZLD System enables tanneries to recover and reuse water for their process thus minimizing the drawal of water from water bodies like wells etc.

38. According to the learned counsel, presently there are 8 CETPs to which 459 tanneries are connected and 26 IETPs in the erstwhile Vellore District, all of which have set up ZLD Plants that are successfully operating under the supervision of the TNPCB. The tanning industry in Tamil Nadu is the only sector in India that has implemented ZLD system, having made substantial investment of more than Rs.747.19 Crores for the establishment of the 8 CETPs with financial assistance from the Government of India and the Government of Tamil Nadu. Additionally, Rs.75 Crores has been invested for the establishment of 26 IETPs.

39. It is further submitted that the tanneries incur exorbitant operation and maintenance cost. The O & M cost of the ZLD system is substantial with the cost per cubic meter having increased nearly 10 times since the implementation of the ZLD system. Previously, the O&M cost under conventional treatment system was around Rs.50 - 80 per cubic meter, but with the new system, this cost has risen to approximately Rs.700 to 800 per cubic meter, with energy cost alone accounting for 50% of the total O&M expenses. That apart, the operation and maintenance cost of the CETPs is borne collectively by the members on a pro-rata basis based on the volume of effluent discharged by each member unit.

40. It is also submitted that TNPCB as per the directions of the CPCB has fixed certain parameters to be followed by the Member Units of the CETPs before discharging their effluent to their respective CETPs. The functioning of the CETP and IETPs are monitored online by both TNPCB & CPCB. The Electromagnetic Flow Meters and the IP Cameras are connected to the Water Quality Watch Centre of TNPCB and CPCB portal for online monitoring to ensure ZLD at all times. The CPCB continuously monitors online at the outlet of the CETPs. It is further submitted that TNPCB collects the effluent samples every month at various stages and result are shared with the CETP and directions are issued in case of variations in the parameters. Relying on the observation of the High Court in the order in W.P.No.8335 of 2009, it is thus submitted that steps have been taken to prevent pollution.

41. Regarding the Solid Waste Management System, it is submitted that the sludge generated from the treatment system as well as from the Pre-treatment system in Member tanneries is processed

using mechanical dewatering system, such as, Filter Press, Screw Press and Centrifuges to reduce moisture content. The sludge having 40% of solids content and 60% of moisture are collected and stored in an impervious, covered roofed sludge storage shed. After drying it is then scientifically disposed of to Cement Industries for Co-processing in their Cement Kiln to convert it into utilizable product as per the Hazardous Waste Authorization issued to the CETPs/IETPs by the TNPCB.

42. It is submitted that as explained supra, the industry implemented, with the assistance and guidance of the premier leather research institute in the country viz; Central Leather Research Institute, scientific, eco-friendly measures in tanneries based on the "reduce, recycle and reuse" (3R) principle in the pre-process, in-process and end-of-pipe stages to reduce pollution load in the discharged effluent; voluntarily stopped using chemicals that do not pass ZDHC- Level 3 certification; converted conventional effluent treatment systems into Zero Liquid Discharge Effluent Treatment Systems using modern, state-of- the- art proven technology and disposes off hazardous solid waste to Pollution Control Board-certified pre-processors to be used in cement kiln industries thus ensuring that ecology is not harmed by the industry on account of its solid waste or liquid waste.

43. It is further submitted that the salt generated by the CETPs from its Multiple Effect Evaporator (MEE) Process are stored in an impervious Salt Storage shed as per the direction of the TNPCB. The CETPs have also prepared a Detailed Project Report (DPR) for purification of MEE salt for reuse in the Chlor-alkali industries as per the design of the CSIR-Central Salt and Marine Chemicals Research Institute (CSMCRI) Bhav Nagar, Gujarat and submitted the same to the Department for Promotion of Industry and Internal Trade (DPIIT), a Central Government Department under the Ministry of Commerce & Industry, Govt of India. The report is currently awaiting funding approval under the Indian Footwear and Leather Development Programme (IFLDP) – Sustainable Technology & Environmental Promotion (STEP) sub-scheme after being duly vetted by the CSIR - Central Leather Research Institute (CLRI). It is also submitted that the tannery industry in the erstwhile Vellore District (now trifurcated into three districts) has already paid the compensation as stipulated by the LoEA and implemented all the directions issued by the LoEA, thus completely arresting discharge of treated effluent onto land or into the river.

44. With these submissions, the learned counsel sought to dismiss the appeals filed by the appellant / Vellore District Environment Monitoring Committee. AISHTMA / APPELLANT IN SLP(C) NO.26608 OF 2011

45. It is submitted that pursuant to the direction of the High Court, a detailed, comprehensive and scientific enquiry was conducted which culminated into an award dated 07.03.2001 to identify the pollution affected individuals or families in the entire Vellore District for the period 1991-1998. The said award has already been duly complied with by the AISHTMA which deposited the pollution fine levied under the said award on individual tanners and has paid the pollution compensation amounts for the affected persons as well as for ecological restoration and reversal schemes. This was done, despite the fact that hundreds of crores of rupees had already been spent by the tanning industry in adopting the latest and most modern pollution controlling techniques.

46. It is further submitted that the LoEA admitted in the award dated 07.03.2001 that it identified 186 villages in 7 taluks of the entire Vellore District as pollution affected ones for the period 1991-1998 with 29,193 individuals or families as beneficiaries to receive pollution compensation from the AISHTMA and therefore, the question of re-conducting this exercise after a gap of 10 years to consider the left-over cases is unsustainable.

47. It is further submitted that the LoEA illegally empowered itself to re-conduct the entire exercise for the so-called left-over cases which ultimately culminated into an Award dated 24.08.2009. This award was based on the interim order dated 20.12.2007 passed by another bench of the High Court in WP(C) No.23291 of 2006 filed by the Vellore Consumer Forum. In the said interim order, the High Court merely recorded the submission of the Counsel for the LoEA to the effect that the LoEA will consider all the applications filed before the cut-off date which are pending as well as the applications that are filed after the cut-off date and decide them in accordance with law and grant compensation wherever the case is made out. Thus, there was no direction to the LoEA by the High Court to consider the left-over cases and the LoEA misused the directions of the High Court in its attempt to make the tanning industry represented by the AISHTMA as a scapegoat to hide its own wrongful omissions and commissions. Further, in the aforesaid writ petition, neither the appellant nor any other affected tanning industry was made a party and the said writ petition is still pending for final disposal.

48. According to the learned counsel, the report and the award dated 24.08.2009 passed by the LoEA thereby awarding compensation to the tune of Rs. 2.91 Crores to 1382 affected individuals is without jurisdiction, and even if assuming without conceding these to be within jurisdiction, there was violation of the principles of natural justice as the compensation demanded through claim notices were sent to individual tanneries by the LoEA even before passing of the award on 24.08.2009.

49. It is further submitted that the arguments/objections made by the AISHTMA before the LoEA were not considered in the Award dated 24.08.2009 and was rather summarily rejected. That apart, the findings of the LoEA are not only vague but also bereft of any reliable evidence and is based only on conjectures and surmises.

50. It is further stated that post 2003 the AISHTMA and other tanning industries have more capably adhered to the charter on Corporate Responsibility for Environmental Protection (CREP) carved out by the Central Pollution Control Board in the year 2003 for the tanning sector across India, which is very much evident from the implementation status report as on January, 2005 of the Task Force constituted by the Central Pollution Control Board for overseeing its CREP recommendations. Even upon considering a presumptuous eventuality that the LoEA has powers to identify the affected individuals through its Award dated 24.08.2009 belatedly and retrospectively for the period 1991-1998; even then also the principle of equity demands that the amount of compensation should be disbursed to the left-over affected persons, etc. from the amount already deposited years ago by the appellant herein under the Award dated 07.03.2001, without mentioning the interest part accrued on such heavy amounts to the tune of many crores. Therefore, no fresh liability should be fastened on the appellant because no relevant material evidence has been adduced by the LoEA that there is a

damage to the ecology after 1999 and moreover, once the tanning industry has always fulfilled its part of the liability to bring down pollution levels. Thus, it should not be held liable for wrongful omissions and commissions of others, especially LoEA and the concerned State Govt which were entirely responsible for initiation of timely and expeditious implementation of ecological reversal schemes and programmes.

51. Without considering all these aspects, the High Court erred in dismissing the writ petition filed by AISHTMA by the order impugned herein, which will have to be set aside by this Court.

RESPONDENT NOS.3 & 4 IN SLP (C) NO.26608 OF 2011

52. At the outset, it is submitted that the appellant / AISHTMA is the fourth respondent in SLP (C)Nos.22633-22634 of 2010 and has been actively contesting the same by filing counter affidavits, etc. However, as a counter blast, they preferred this appeal, which was registered as SLP(C)No.26608 of 2011, without there being any order to condone the delay of 439 days in filing the same.

53. It is further submitted that at the instance of the AISHTMA, the award dated 07.03.2001 passed by the LoEA was challenged in W.P.No.512 of 2002, which by order dated 22.03.2002, was disposed of by the High Court, by permitting the tanneries to deposit the compensation determined in instalments. However, the award of the LoEA was affirmed by the High Court and the same reached finality. Hence, the liability of the industries to pay compensation for the environmental damage caused by them is no longer res integra and has been accepted by the appellant AISHTMA.

54. As far as the award dated 24.08.2009 passed by the LoEA is concerned, the learned counsel submitted that it was only in respect of those who were left out of the earlier award dated 07.03.2001. It pertains to the very same area, following the same methodology, based on inspections conducted by the LoEA and was issued after issuance of notices to the AISHTMA and tanneries. Therefore, the AISHTMA cannot proceed to challenge the very basis of their liability to pay compensation, as these issues have been conclusively decided by this Court in Vellore Citizens Welfare Forum (supra).

55. It is submitted that the AISHTMA attempts to conflate two awards of the Authority, which according to the Respondent Nos.3 and 4, are distinct. Vide award dated 24.08.2009 which was impugned in W.P No. 22638 of 2009, the LoEA dealt with the left-out cases for the period from 12.08.1991 to 31.12.1998. Whereas, the LoEA passed an order dated 05.05.2009 based on the orders in M.P. No. 1 of 2008 in W.P. No. 8335 of 2008, subsequently modified by the High Court in M.P. No. 2 of 2008 in W.P. No. 8335 of 2008, which dealt with liability of the polluters to pay compensation for the period 1999-2008. Thus, both the awards/orders of the authority are distinct.

56. Adding further, it is submitted that paragraph 3.1 of the award of the LoEA dated 24.08.2009 indicates that on scrutiny, out of the 7,937 claims received, 515 were found to be duplicates and the remaining 7,422 claims were processed and intimation of the steps taken by the authority was sent to the AISHTMA. Also, paragraph 4 of the Award proceeds to state that for the 7,422 claims, from

the same 7 Taluks covered in the earlier award, once again, field surveys were fixed with advance intimation to the AISHTMA. However, it appears that representatives of the AISHTMA did not participate in the field surveys which were conducted in the presence of revenue officials and water samples were collected from wells to ascertain TDS, based on which the compensation was to be calculated. The LoEA used an extremely conservative yardstick to determine compensation payable per hectare, i.e., a farmer whose livelihood is destroyed by contamination of their water source, rendering the land fallow and uncultivable, was provided a meager sum ranging from Rs.1,000/- a year to Rs.14,000/- a year (Rs.83/- a month to Rs.1,166/- a month per hectare per year was quantified). This meager compensation was also computed and awarded only for the period from 12.08.1991 to 31.12.1998. If pollution has stopped and the ecology has recovered, then further compensation is not required. Whereas, it is evident from the reports of the TNPCB and the audit of the CPCB, none of the units have achieved Zero Liquid Discharge, and the pollution continues unabated. It is therefore just and necessary that the compensation be paid to the affected parties till the damage is reversed and the ecology recovers.

57. Therefore, it is submitted that the High Court has correctly dismissed the writ petition, after having held that the award impugned in the writ petition, cannot be termed as a fresh award and that it is a continuation of the earlier award of the year 2001, as it concerns the left-out cases. The High Court rightly placed reliance on the polluter pays principle to hold that the liability continues till the ecological damage caused by the polluter is restored and the liability is an absolute liability. Therefore, the High Court, in line with the judgement in Vellore Citizens Welfare Forum held that the polluters ought to be liable for payment of compensation until the pollution ceases and the ecological damage is restored, and that the compensation paid cannot be considered as one-time payment.

58. According to the Respondent Nos.3 and 4, the present attempt of the AISTHMA is to frustrate poor and marginal farmers who have suffered the fallout of the pollution caused by tanneries, who have profited and prospered by polluting the environment and these entities have saved money by not treating the effluent. Thus, according to the learned counsel, the order of the High Court does not require any interference by this Court. SUBMISSIONS OF THE RESPONDENT AUTHORITIES

59. Reiterating the contents made in the reports submitted by them, pursuant to the order of this court dated 19.11.2024 regarding the current state of pollution in the Vellore District, the learned counsel for the TNPCB and CPCB have made their respective submissions. They have also submitted that the authorities are intending to comply with any directions / orders, that may be passed by this Court, to sub-serve the interests of justice.

VI. ANALYSIS (A) BASIC PRINCIPLES

60. At the outset, it is imperative to establish the three foundational principles viz.,

(i) Doctrine of Public Trust, (ii) Principle of Sustainable Development, and (iii) Right to healthy environment, that must guide the consideration of other aspects in this case. PUBLIC TRUST DOCTRINE

61. The Doctrine of Public Trust asserts that vital natural resources such as rivers, seashores, forests, and air are held in trust by the State for the benefit and enjoyment of the public. Rooted in Roman law, which classified these resources as common property (res communis) or unowned (res nullius), and refined by English common law, this doctrine places a fiduciary duty on governments to protect them from privatization or exploitation that compromises public interests. It imposes three key restrictions viz.,

(a)resources must remain accessible for public use, (b)cannot be sold for private gain, and

(c)must be preserved in their natural state. Courts internationally, have extended its scope to protect wetlands, riparian forests, and ecologically fragile lands, emphasizing the need for environmental preservation in light of modern ecological challenges. This evolving interpretation reflects the doctrine's relevance in maintaining the balance between sustainable development and environmental conservation. In M.C. Mehta v. Kamal Nath12, this court elucidated the doctrine of public trust as follows:

> "24. The ancient Roman Empire developed a legal theory known as the "Doctrine of the Public Trust". It was founded on the ideas that certain common properties such as rivers, seashore, forests and the air were held by the Government in trusteeship for the free and unimpeded use of the general public. Our contemporary concern about "the environment" bears a very close conceptual relationship to this legal doctrine. Under the Roman law these resources were either owned by no one (res nullious) or by everyone in common (res communious). Under the English common law, however, the Sovereign could own these resources but the ownership was limited in nature, the Crown could not grant these properties to private owners if the effect was to interfere with the public interests in navigation or fishing. Resources that were suitable for these uses were deemed to be held in trust by the Crown for the benefit of the public. Joseph L. Sax, Professor of Law, University of Michigan — proponent of the Modern Public Trust Doctrine — in an erudite article "Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention", Michigan Law Review, Vol. 68, Part 1 p. 473, has given the historical background of the public trust doctrine as under:
>
> 'The source of modern public trust law is found in a concept that received much attention in Roman and English law — the nature of property rights in rivers, the sea, and the seashore. That history has been given considerable attention in the legal literature, need not be repeated in detail here. But two points should be emphasised. First, certain interests, such as navigation and fishing, were sought to be preserved for the benefit of the public; accordingly, property used for those purposes was distinguished from general public property which the sovereign could routinely grant to private owners. Second, while it was understood that in certain common properties (1997) 1 SCC 388 — such as the seashore, highways, and running water — "perpetual use was dedicated to the public", it has never been clear whether the public had an enforceable right to prevent infringement of those interests. Although

> the State apparently did protect public uses, no evidence is available that public rights could be legally asserted against a recalcitrant government.'
>
> 25. The public trust doctrine primarily rests on the principle that certain resources like air, sea, waters, and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership.

The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the public trust doctrine imposes the following restrictions on governmental authority:

> "Three types of restrictions on governmental authority are often though to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third property must be maintained in particular types of uses".

62. Further, in Vedanta Limited v. State of Tamil Nadu13, it was observed by this Court as follows:

> "25. In addition, the public trust doctrine, recognized in various jurisdictions, including India, establishes that the state holds natural resources in trust for the benefit of the public. It reinforces the idea that the State must act as a steward of the environment, ensuring that the common resources necessary for the well-being of the populace are protected against exploitation or degradation. These principles underscore the importance of balancing economic interests with environmental and public welfare concerns. While the industry has played a role in economic growth, the health and welfare of the residents of the area is a matter of utmost concern. In the ultimate analysis, the State Government is responsible for preserving and protecting their concerns." 2024 SCC Online SC 230 SUSTAINABLE DEVELOPMENT

63. The doctrine of sustainable development was evolved to strike a balance between economic advancement and environmental safeguards. It envisions development that can be sustained by nature / environment. While the advancement of industries and infrastructure is indispensable for fostering employment and generating revenue, such growth cannot come at the cost of irreparable ecological damage. This Court has already extensively considered the concept of sustainable development in the following decisions, the relevant paragraphs of which are reproduced below:

> (i) Vellore Citizens' Welfare Forum (supra):
>
> "10. The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the

international sphere, “Sustainable Development” as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called “Our Common Future”. The Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland and as such the report is popularly known as “Brundtland Report”. In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a document called “Caring for the Earth” which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in history—deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents, namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio “Sustainable Development” has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. “Sustainable Development” as defined by the Brundtland Report means “Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”. We have no hesitation in holding that “Sustainable Development” as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.”

(ii) Intellectuals Forum v. State of A.P.14:

“84. The world has reached a level of growth in the 21st century as never before envisaged. While the crisis of economic growth is still on, the key question which often arises and the courts are asked to adjudicate upon is whether economic growth can supersede the concern for environmental protection and whether sustainable development which can be achieved only by way of protecting the environment and conserving the natural resources for the benefit of humanity and future generations could be ignored in the garb of economic growth or compelling human necessity. The growth and development process are terms without any content, without an inkling as to the substance of their end results. This inevitably leads us to the conception of growth and development, which sustains from one generation to the next in order to secure “our common future”. In pursuit of development, focus has to be on sustainability of development and policies towards that end have to be earnestly formulated and sincerely observed. As Prof. Weiss puts it, “conservation, however, always takes a back seat in times of economic stress”. It is now an accepted social principle that all human beings have a fundamental right to a healthy environment,

commensurate with their well-being, coupled with a corresponding duty of ensuring that resources are conserved and preserved in such a way that present as well as the future generations are aware of them equally."

(iii) Tirupur Dyeing Factory Owners Assn. v. Noyyal River Ayacutdars Protection Assn.15 "The concept of "sustainable development" has been explained that it covers the development that meets the needs of the person without compromising the ability of the future generation to meet their own needs. It means the development, that can take place and which can be sustained by nature/ecology with or without mitigation. Therefore, in such matters, the required standard is that the risk of harm to the environment or to human health is to be decided in public interest, according to a "reasonable person's" test. The development of the industries, irrigation resources and power projects are necessary to improve employment opportunities and generation of revenue, therefore, (2006) 3 SCC 549 (2009) 9 SCC 737 cannot be ignored. In such eventuality, a balance has to be struck for the reason that if the activity is allowed to go on, there may be irreparable damage to the environment and there may be irreparable damage to the economic interest. A similar view has been reiterated by this Court in T.N. Godavarman Thirumulpad (104) v. Union of India [(2008) 2 SCC 222] and M.C. Mehta v. Union of India [(2009) 6 SCC 142]."

(iv) Vedanta Limited (supra) "24. The closure of the industry is undoubtedly not a matter of first choice. The nature of the violations and the repeated nature of the breaches coupled with the severity of the breach of environmental norms would in the ultimate analysis have left neither the statutory authorities nor the High Court with the option to take any other view unless they were to be oblivious of their plain duty. We are conscious of the fact that the unit, as this Court observed in its decision in 2013, has been contributing to the productive assets of the nation and providing employment and revenue in the area. While these aspects have undoubted relevance, the Court has to be mindful of other well-settled principles including the principles of sustainable development, the polluter pays principle, and the public trust doctrine. The polluter pays principle, a widely accepted norm in international and domestic environmental law, asserts that those who pollute or degrade the environment should bear the costs of mitigation and restoration. This principle serves as a reminder that economic activities should not come at the expense of environmental degradation or the health of the population.

.....

26. As consistently held in numerous decisions of this Court, the unequivocal right to a clean environment is an indispensable entitlement extended to all persons. Air, which is polluted beyond the permissible limit, not only has a detrimental impact on all life forms including humans, but also triggers a cascade of ecological ramifications. The same is true for polluted water, where the pervasive contamination poses a profound threat to the delicate balance of ecosystems. The impact of environmental pollution and degradation is far reaching: it is often not only severe but also

persists over the long term. While some adverse effects may be immediately evident, the intensity of other kinds of harm reveals itself over time. Persons who live in surrounding areas may develop diseases which not only result in financial burdens but also impact the quality of life. The development and growth of children in these communities may become stunted, creating a tragic legacy of compromised potential. Basic necessities, such as access to potable water, may not be met, exacerbating the challenges faced by these already vulnerable populations. Undoubtedly, such adverse effects are felt more deeply by marginalised and poor communities, for whom it becomes increasingly difficult to escape the cycle of poverty.

27. This Court is also alive to the concept of intergenerational equity, which suggests that "present residents of the earth hold the earth in trust for future generations and at the same time the present generation is entitled to reap benefits from it." The planet and its invaluable resources must be conscientiously conserved and responsibly managed for the use and enjoyment of future generations, emphasising the enduring obligation to safeguard the environmental heritage for the well-being of all.

28. It is an undeniable and fundamental truth that all persons have the right to breathe clean air, drink clean water, live a life free from disease and sickness, and for those who till the earth, have access to uncontaminated soil. These rights are not only recognized as essential components of human rights but are also enshrined in various international treaties and agreements, such as the Universal Declaration of Human Rights, the Convention on Biological Diversity, and the Paris Agreement. As such, they must be protected and upheld by governments and institutions worldwide, even as we generate employment and industry. The ultimate aim of all our endeavours is for all people to be able to live 'the good life.' Without these basic rights, increased revenue and employment cease to have any real meaning. It is not merely about economic growth but about ensuring the well-being and dignity of every individual. As we pursue development, we must prioritize the protection of these rights, recognizing that they are essential for sustainable progress. Only by safeguarding these fundamental rights can we truly create a world where everyone has the opportunity to thrive and prosper.

29. We have heard these proceedings for several days and after a careful evaluation of the factual and legal material, we have come to the conclusion that the Special Leave Petitions do not warrant interference under Article 136 of the Constitution."

(v) M.C.Mehta v. Union of India16 "19.....As stated above, in the past when mining leases were granted, requisite clearances for carrying out mining operations were not obtained which have resulted in land and environmental degradation. Despite such breaches, approvals had been granted for subsequent slots because in the past the Authorities have not taken into account the macro effect of such wide scale land and environmental degradation caused by absence of remedial measures (including rehabilitation plan). Time has now come, therefore, to suspend mining in the above Area till statutory provisions for restoration and reclamation are duly complied with, particularly in cases where pits/quarries have been left abandoned. Environment and ecology are national assets. They are subject to (2009) 6 SCC 142 inter-generational equity. Time has now come to suspend all mining in the above Area on Sustainable Development Principle which is part of Articles 21, 48A and 51A(g)

of the Constitution of India. In fact, these Articles have been extensively discussed in the judgment in M.C. Mehta's case (supra) which keeps the option of imposing a ban in future open. Mining within the Principle of Sustainable Development comes within the concept of "balancing" whereas mining beyond the Principle of Sustainable Development comes within the concept of "banning". It is a matter of degree. Balancing of the mining activity with environment protection and banning such activity are two sides of the same principle of sustainable development. They are parts of Precautionary Principle." RIGHT TO HEALTHY ENVIRONMENT

64. Right to life inherently includes the right to enjoy, pollution free environment, which are essential for the full enjoyment of life. If anything endangers or impairs the quality of life in derogation of laws, a citizen has the right to have recourse to Article 32 of the Constitution to address the pollution of environment which may be detrimental to the quality of life. This court has recognised the concept of 'right to healthy environment' as part of the 'right to life' under Article 21 and thereby has also recognised the 'right to clean drinking water' as a fundamental right. Infact, environmental rights, which encompass a group of collective rights, are now described as "third generation" rights. Therefore, the State, so as to sustain its claim of functioning for the welfare of its citizens, is bound to regulate water supply by safeguarding, maintaining and restoring the water bodies to protect the right to healthy water and prevent health hazards. This court has also laid down in many cases, that the States shall ensure that the water bodies are free from encroachments and steps must be taken to restore the water bodies. In this context, we may refer to the following judgments and observations made thereunder:

> (i) Subash Kumar v. State of Bihar17 "7. Article 32 is designed for the enforcement of Fundamental Rights of a citizen by the Apex Court. It provides for an extraordinary procedure to safeguard the Fundamental Rights of a citizen. Right to live is a fundamental right under Art 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Art. 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life. ....."
>
> (ii) State of Karnataka v. State of Andhra Pradesh18 "175. Water is a unique gift of nature which has made the planet earth habitable. Life cannot be sustained without water. In the National Water Policy issued by the Government of India in 1987, it was declared that water is a prime natural resource, a basic human need and a precious national asset. Water, like air, is the essence for human survival. The history of water availability and its user is tied up with the history of biologically evolution in all civilizations. It will not be wrong to say that not only the life started in water but rather water is life itself. It is essential for mankind, animals, environment, flora and fauna. There is no denial of the fact that in the ancient times water played an important role in the origin, development and growth of civilization all over the globe. Water is an important factor in the economic development of the countries which ultimately affects the social and human relations between the habitants.

Planned development and proper utilization of water resources can serve both as a cause as well as an effect off the prosperity of a nation. Water on earth is available in the form of frozen snow, rivers lakes, springs, water ways, water falls and aqueducts, etc."

(iii)A.P. Pollution Control Board II v. Prof. M.V. Naidu and Others19 "7. Our Supreme Court was one of the first Courts to develop the concept of right to 'healthy environment' as part of the right to "life" under Article 21 of our Constitution. [See Bandhua Mukti Morcha v. Union of India (1984 (3) SCC 161)]. This principle has now been adopted in various countries today.

8. In today's emerging jurisprudence, environmental rights which encompass a group of collective rights are described as "third generation" rights. The "first generation"

> rights are generally political rights such as those found in the International Convention (1991) 1 SCC 598 : 1991 SCC OnLine SC 42 (2000) 9 SCC 572 (2001) 2 SCC 62 : 2000 SCC OnLine SC 1679 on Civil & Political Rights while "second generation" rights are social and economic rights as found in the International Covenant on Economic, Social and Cultural Rights.
>
> "Right to Healthy Environment". (See Vol.25) 2000 Columbia Journal of Environmental Law by John Lee P.283, at pp.293-294 fn.29)." (B) POLLUTION CAUSED BY TANNERIES
>
> 65. The livelihoods of people in Vellore District, particularly farmers, inland fishermen, and rural communities, have been severely impacted by the tanning industry. Excessive sand mining along riverbanks, especially the River Palar, has caused ecological damage, including lowered groundwater levels, riverbank erosion, and loss of fertile land. Farmers face water scarcity, degraded soil quality, and declining agricultural income, with crop failures becoming common. The toxic contamination of soil and water has also led to increased public health concerns, including respiratory and skin disorders. Tanneries in the district, operational since 1914 are a major contributor to these problems. They utilize chemicals, such as, calcium carbonate, sodium chloride, and sulphuric acid in processing hides and skins. Chrome tanning, a dominant method, generates effluents containing heavy metals like chromium, lead, arsenic, and mercury, which contaminate groundwater and soil, posing serious risks to human health and ecosystems. Effluents discharge into fields, irrigation tanks, and the River Palar exacerbates the problem, with untreated wastewater often exceeding safe Total Dissolved Solids (TDS) levels, reaching up to 15,000 mg/l in some cases.
>
> 66. Data shows that on average, tanneries process approximately 1.1 million kilograms of raw hides daily, using 45–50 million litres of water and discharging 35–45 litres of wastewater per kilogram processed and thereby resulting in an effluent discharge of 37,458 kld (13.5 mcm annually). Solid waste generation ranges from 38.5 to 62 kilograms per 100 kilograms of raw hides, with only 20–32 kilograms

of finished leather produced.

The high levels of TDS in tannery wastewater, primarily due to sodium chloride and other chemicals, further degrade soil and water quality. This has significantly declined crop productivity, with tannery waste rendering agricultural land infertile over time. Further, groundwater, a primary source for drinking and domestic use in the district, is also heavily impacted, thus adversely affecting public health.20 Another Survey21 has also indicated the decline in the productivity and production of crops over the years. The systematic pollution will also have a cascading effect on the aquifers, thereby decreasing the availability of the groundwater in the surrounding areas. All these issues ultimately have far-reaching implications for the region's socio-economic stability. (C) CURRENT STATUS OF POLLUTION

67. The CPCB report dated 09.12.2024 states that the work of monitoring groundwater (infiltration wells) and outfalls (drains) / surface water along the River Palar is being carried out by the TNPCB from time to time. They also furnished status reports of pollution control measures adopted by the CETP and IETP of tannery units, which were collected and compiled by the TNPCB. It was revealed from the report that the TNPCB A review on Tannery Pollution in Vellore District, Tamil Nadu reported in Research Journal of Pharmaceutical, Biological and Chemical Sciences ISSN:0975-8585 Environmental Impact of leather Industrial Pollution on Agricultural Production in Vellore District Journal of Environmental Impact and Management Policy - ISSN: 2799-113X has collected samples from 34 outfalls (drains) directly discharging into the river and the other two drains (inlet & outlet of Pernambut Lake) in the years 2021 and 2022. Based on monitoring reports of the TNPCB, the status of these outfalls (drains) compared with the results of 2015, is summarised by us in the below table:

Present state of Outfalls in Palar River (2021-2022) Parameter BOD COD TSS TDS Chromium Chloride Sulphide Biological Chemical Total Total Oxygen Oxygen Suspend Dissolved Demand demand ed Salts Solids Standard ☐30mg/l ☐250mg/l ☐ 100 ☐2100mg/l ☐2mg/l ☐1000 ☐2mg/l level set mg/l mg/l by PCB Highest 464 1848 1934 4320 BDL 2026 115 Range Sunnabukal Sunnabukal Sunnab Vadakarai (Below Vadakar Sunambu road road ukal Detection ai kal road limit) Lowest 32.8 OV 263 108 2156 BDL 1150 4 Range bridge Girisamudram Girisam Jaffrabadh (Below Minnur Viruthamb udram Detection atu Limit) Note in 20 outfalls Similar to 2015 2015 2015 levels N/A Higher Higher than comparis are meeting levels (2104-7088) than 2015 levels on with general (251-1952) (164- 2015 2015 Data standard as 304) Improvement levels against 5 in 2015 Increasi indicating ng trend decrease in number of outfalls in which exceedance of BOD standards was reported from 2015 (31-510) The above table clearly shows higher concentrations of BOD, COD, TDS, Chloride and Sulphide in the Palar River stretches as compared to 2015. Further, the result also indicates that the drains are carrying untreated sewage and occasional influx of industrial effluent.

68. That apart, the samples were analysed for parameters such as pH, EC, TDS, COD, Total hardness, Chloride, Alkalinity, Sulphate, Sodium, Total Chromium and the monitoring results were

compared with Indian Standard for drinking water specification IS 10500:2012.

Present state of Groundwater and monitoring well in Palar River (2021-2024) Parameter BOD COD TDS Chromium Chloride Alkalinity Hardness IS - N/A 12/26 500-2000 0.05 mg/l 250/1000 200/600 mg/l 200/600 10500:2012 mg/l mg/l mg/l level -

drinking water							
Highest	28	296	3552	BDL	2275	210-910 mg/l	8
Range		Monitoring well at Girisamudram	Madhannur		Malatru in Madapalli	Ramayanatho pu	1 W h
Lowest	2-8	08	2020	BDL	74-415	89-245 mg/l	1
Range		Chikramallur	Veppur		Navlock	Kodayanchi	m M

The above table indicates that most of the groundwater (infiltration wells) do not meet the permissible drinking water standards with respect to TDS, total hardness, chloride & alkalinity. Additionally, there is an increasing trend in the concentration of COD in the groundwater, which requires detailed assessment by the TNPCB through expert institutions, such as, NEERI, NGRI, etc. to study the extent of groundwater contamination, if any, and to identify and execute the remedial measures for the same. Sewage Management

69. In 2015, the urban areas of Vellore District located on the banks of the River Palar such as Vaniyambadi, Ambur, Vellore, Melvisharam, Arcot, Ranipet and Walajahpet, did not have any Sewage Treatment Plant (STP) to treat the sewage generated by these towns. Untreated sewage from these municipal areas was either being utilised for irrigation by surrounding farmers or ultimately flowing into the river. At present, STPs have been constructed in two Municipalities i.e. Ambur & Ranipet and are operational. An STP has also been constructed in Vellore city, but is not yet operational. Thus, as of now, untreated sewage from the municipal limits of Vellore, Vaniyambadi, Melvisharam, Arcot and Walajahpet continues to flow into the river, while treated sewage is discharged from Ambur & Ranipet.

Effluent Treatment Plants

70. The CPCB report reveals that at present, there are 434 tanneries connected to the 8 CETPs. The CETPs have been upgraded to ZLD system with improved salt recovery and sludge management. All 8 CETPs have installed Online Continuous Effluent Monitoring System (OCEMS) which are connected to the CPCB and TNPCB servers. Further, in 2015, 26 tanneries had individual ETPs and at present, there are 30 tannery units, of which 10 units have been closed either voluntarily or due to the directions issued by CPCB, while 20 units remain operational. All these 20 operational units have upgraded their IETPs by installing Multiple Eject Evaporators (MEE) combined with Agitated

Thin Film Dryers (ATFD) as part of their ZLD systems, replacing their earlier solar evaporation ponds. These upgrades have enhanced salt recovery efficiency and optimised waste management processes. The CPCB report further states that there has been an improvement in the available ZLD system both for IETPs and CETPs compared to 2015. Despite the adoption of ZLD in the IETPs and CETPs, the higher concentration of reported parameters in outfalls and infiltration wells in stretches I, II, & III indicates occasional discharges from industrial activities, along with untreated sewage from the surrounding area. The report also highlighted the need for the TNPCB to be more vigilant with regard to the industries in the area. Additionally, adequate sewage management systems need to be installed in the area to prevent untreated sewage, that is discharged into the river. (D) LIABILITY TO PAY COMPENSATION POLLUTER PAYS PRINCIPLE

71. Coming to the aspect of liability, it would be relevant to discuss the "polluters pay principle" which is the universal principle followed for fastening liability on the polluter for the proportionate damage caused to the environment, resulting in violation of right to clean and healthy environment as guaranteed under Article 21 of the Constitution of India. In Indian Council for Enviro-Legal Action v. Union of India22, it was noted that when an activity is inherently hazardous or dangerous, the individual or entity engaging in such activity bears absolute liability for any harm caused, regardless of the care exercised. Polluting industries, therefore, are under an obligation to fully compensate for the damage caused to affected communities. More importantly, the Court clarified that the Polluter Pays Principle extended beyond compensating victims of pollution; it included the cost of reversing environmental degradation, in other words, they are required to undertake all necessary remedial measures to remove pollutants and restore the environment. This principle, along with the Precautionary Principle, has been recognized as part of the law of the land, drawing strength from Article 21 of the Constitution, which guarantees the right to life and personal liberty. It underscores that environmental protection is not merely a regulatory obligation but a constitutional imperative aimed at safeguarding the fundamental rights of individuals and preserving ecological balance. The relevant paragraphs are as under:

> "65.....We are convinced that the law stated by this Court in Oleum Gas Leak case [M.C. Mehta v. Union of India, (1987) 1 SCC 395 : 1987 SCC (L&S) 37] is by far the more appropriate one — apart from the fact that it is binding upon us. (We have disagreed with the view that the law stated in the said decision is obiter.) According to this rule, once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the (1996) 3 SCC 212 activity carried on. In the words of the Constitution Bench, such an activity: (SCC p.

421, para 31) "... can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not".

The Constitution Bench has also assigned the reason for stating the law in the said terms. It is that the enterprise (carrying on the hazardous or inherently dangerous activity) alone has the resource to discover and guard against hazards or dangers — and not the person affected and the practical difficulty (on the part of the affected person) in establishing the absence of reasonable care or that the damage to him was foreseeable by the enterprise.

67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" principle. [(Historic Pollution — Does the Polluter Pay? by Carolyn Shelbourn — Journal of Planning and Environmental Law, Aug. 1974 issue.)] "The Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution. Under the principle it is not the role of Government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'Polluter Pays' principle was promoted by the Organisation for Economic Cooperation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on Government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialised society. Since then there has been considerable discussion of the nature of the Polluter Pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactorily agreed. Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme [(1987) OJC 328/1] makes it clear that 'the cost of preventing and eliminating nuisances must in principle be borne by the polluter', and the Polluter Pays principle has now been incorporated into the European Community Treaty as part of the new articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the community, and that action is to be based on three principles: the need for preventive action; the need for environmental damage to be rectified at source; and that the polluter should pay."

72. Referring to the aforesaid judgment, this Court in Vellore Citizen Welfare Forum (supra) held in paragraph 12, as under:

> "12. The Polluter Pays Principle" has been held to be a sound principle by this Court in Indian Council for Enviro-Legal Action v. Union of India [(1996) 3 SCC 212 : JT (1996) 2 SC 196] . The Court observed : (SCC p. 246, para 65) "... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country." The Court ruled that : (SCC p. 246, para 65) "... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care

> while carrying on his activity. The rule is premised upon the very nature of the activity carried on".

Consequently, the polluting industries are thus "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."

73. In M.C. Mehta v. Kamal Nath23, it was observed by this Court as follows:

> "8. Apart from the above statutes and the rules made thereunder, Article 48-A of the Constitution provides that the State shall endeavour to protect and improve the (2000) 6 SCC 213 : 2000 SCC OnLine SC 963 environment and to safeguard the forests and wildlife of the country. One of the fundamental duties of every citizen as set out in Article 51-A(g) is to protect and improve the natural environment, including forests, lakes, rivers and wildlife and to have compassion for living creatures. These two articles have to be considered in the light of Article 21 of the Constitution which provides that no person shall be deprived of his life and liberty except in accordance with the procedure established by law. Any disturbance of the basic environment elements, namely, air, water and soil, which are necessary for "life", would be hazardous to "life" within the meaning of Article 21 of the Constitution.

9. In the matter of enforcement of rights under Article 21 of the Constitution, this Court, besides enforcing the provisions of the Acts referred to above, has also given effect to fundamental rights under Articles 14 and 21 of the Constitution and has held that if those rights are violated by disturbing the environment, it can award damages not only for the restoration of the ecological balance, but also for the victims who have suffered due to that disturbance. In order to protect "life", in order to protect "environment" and in order to protect "air, water and soil" from pollution, this Court, through its various judgments has given effect to the rights available, to the citizens and persons alike, under Article 21 of the Constitution. The judgment for removal of hazardous and obnoxious industries from the residential areas, the directions for closure of certain hazardous industries, the directions for closure of slaughterhouse and its relocation, the various directions issued for the protection of the Ridge area in Delhi, the directions for setting up effluent treatment plants to the industries located in Delhi, the directions to tanneries, etc., are all judgments which seek to protect the environment.

10. In the matter of enforcement of fundamental rights under Article 21, under public law domain, the court, in exercise of its powers under Article 32 of the Constitution, has awarded damages against those who have been responsible for disturbing the ecological balance either by running the

industries or any other activity which has the effect of causing pollution in the environment. The Court while awarding damages also enforces the “polluter-pays principle” which is widely accepted as a means of paying for the cost of pollution and control. To put in other words, the wrongdoer, the polluter, is under an obligation to make good the damage caused to the environment.” Therefore, the industries are liable to not only compensate but also bear the costs for restoring the river. Needless to point out that the remedial action would not stop at restoration, but it is a continuous process, to sustain the river, pollution free and a fresh cause of action would commence again if the industries and the local bodies fail in their duty.

(E) EXTENT OF LIABILITY – DEEMING FICTION AND PRECAUTIONARY PRINCIPLE

74. The idea of the Polluter Pays Principle, though seemingly progressive, must be carefully examined to ensure it does not result in the emergence of a "right to pollute" for those who are financially capable or willing to pay. One key question that arises is the extent of liability for the pollution caused, specifically, whether the liability ends once compensation, as determined by the Court or other authorities, is paid, or whether it is a continuing liability that persists until the actual pollution is curbed and its effects reversed. This Court has recognized that the Polluter Pays Principle, when applied absolutely, has not yet sufficiently mitigated the harm caused to the environment, yielding below-average results. The tanneries have clearly exploited this system, discharging effluents, assuming that payment of compensation grants them the right to pollute. This issue is not limited to the Vellore tanneries alone; it is a broader problem seen across industries in developing countries, where it is often seen as more cost-effective to pay the relatively low compensation than to invest in cleaner technologies that would reduce pollution. Industries, when faced with a choice between the marginal damage cost and the marginal cleaning cost, often opt for the former, thus perpetuating the cycle of environmental degradation. Few examples to illustrate the same as under:

(a) Kanpur Tanneries24: Despite the Court's order, it was revealed that the tanneries in Kanpur were operating illegally for all 30 days instead of the Government-mandated 15 days per month. These tanneries have also been discharging contaminated water into the river Ganga, continuing their harmful practices despite legal orders.

(b) Bicchri Industrial Cluster25: The Court passed a verdict in 1999, ordering the company to pay Rs 37.4 crore for remediation. However, the company filed multiple interlocutory applications to delay the payment. In 2011, the Court directed the company to pay the fine along with compound interest at 12% per annum from November 1997 until the amount was fully paid or recovered. Despite this, the village continues to suffer from water contamination and scarcity, impacting drinking water availability, livestock, and agricultural yields. The community, which won the case, has been waiting for over three decades for justice, but compensation has not reached them, and the water crisis persists.

(c) Perundurai26: In this case, although the Court directed industries to comply with the ZLD system, many units continue to violate the norms. They discharge untreated effluents into open places, borewells, wells, and rainwater, and bury sludge in the earth. The TDS levels reportedly reached as high as 20,000 ppm per liter, highlighting a continued disregard for environmental norms27.

1988 SCR (2) 530 1999 SCC (3) 212 Order dated 20.12.2004 passed by the Madras High Court in Writ Petition Nos. 15244 of 2004 https://www.newindianexpress.com/states/tamil-nadu/2018/Jun/16/perundurai-becomes-capital-of-cancer-in-erode-district-1829072.html

75. Further, in Vellore Citizens Welfare Forum (supra), this Court endorsed the application of the absolute liability principle as an integral component of the polluter pays principle, so long as the polluting activity results in harm or damage.

"12. ... Consequently the polluting industries are absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas. The Polluter Pays Principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of Sustainable Development and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."

76. We may also refer to the following decisions, regarding this aspect:

(i) Indian Council For Enviro-Legal Action (supra) "60. ... Be that as it may, we are of the considered opinion that even if it is assumed [for the sake of argument] that this Court cannot award damages against the respondents in these proceedings that does not mean that the Court cannot direct the Central Government to determine and recover the cost of remedial measures from the respondents. Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government [or its delegate, as the case may be] to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment..... Section 5 clothes the Central Government [or its delegate] with the power to issue directions for achieving the objects of the Act. Read with the wide definition of environment in Section 2(a), Sections 3 and 5 clothe the central Government with all such powers as are necessary or expedient for the purpose of protecting and improving the quality of the environment. The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilize the amount so recovered for carrying out remedial measures. This Court can certainly

> give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. We find that similar directions have been made in a recent decision of this Court in Indian Council for Enviro-Legal Action and Ors.

[supra]. That was also a writ petition filed under Article 32 of the Constitution. Following is the direction:

> It appears that the Pollution Control Board had identified as many as 22 industries responsible for the pollution caused by discharge of their effluents into Nakkavagu. They were responsible to compensate to farmers. It was the duty of the State Government to ensure that this amount was recovered from the industries and paid to the farmers. It is, therefore, idle to contend that this Court cannot make appropriate directions for the purpose of ensuring remedial action. It is more a matter of form."
>
> (ii) Bajri Lease LoI Holders Welfare Society v. State of Rajasthan28 "16. The CEC has recommended imposition of exemplary penalty of Rs.10 lakh per vehicle and Rs.5 lakh per cubic metre of sand seized, which would be in addition to what has already been ordered / collected by the State agencies as compensation.

Compensation / penalty to be paid by those indulging in illegal sand mining cannot be restricted to the value of illegally-mined minerals. The cost of restoration of environment as well as the cost of ecological services should be part of the compensation. The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology".

77. When there is a violation in compliance with the environmental laws, be it by engaging in activities directly involved in causing pollution or failure to take steps to curb the pollution and restore the environment or violating any terms of licence granted by any State or central authority and acts in a manner detrimental to the environment, the effect of which causes or is likely to cause degradation of the environment, then the deeming (2022) 16 SCC 581 fiction of polluting the environment becomes applicable and the polluter is not only liable to payment of compensation but also to restore the environment. As we have already seen, there is a persistent duty on the State to ensure that all steps are taken to ensure the protection of the environment. The State, even in the absence of any law, must put in place a mechanism to address the issue of degradation by taking preventive measures. The measures should lean towards protection and preservation rather than facilitation of economic activity by reliance upon lack of scientific details for adverse effects. The State must endeavour through its research wings to identify the industries and activities which impacts or can impact the environment before permitting such activities as there is a possibility that the damage could not only be irreversible but also the effects of such damage could be far more

threatening the human race than the commercial benefits arising out of such activity. This precautionary principle, that has been recognized in various judgments as seen above and in Vellore Citizen Welfare Forum's case (Supra) was reiterated by this Court in T.N. Godavarman Thirumulpad, In re v. Union of India29, the relevant passage of which reads as under:

> "43. The approach of the Court in dealing with complaints of environmental degradation has been laid down by this very Bench in this writ petition itself in an order passed on 9-5- 2022 [T.N. Godavarman Thirumulpad v. Union of India, (2022) 9 SCC 306] in connection with another set of applications. In this order, it has been observed and held : (T.N. Godavarman Thirumulpad case [T.N. Godavarman Thirumulpad v. Union of India, (2022) 9 SCC 306], SCC pp. 315-16, paras 16-19) "16. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in (2022) 10 SCC 544 : 2022 SCC OnLine SC 716 mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, courts are required to balance development needs with the protection of the environment and ecology [T.N. Godavarman Thirumulpad (104) v. Union of India, (2008) 2 SCC 222]. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-

generational equity [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718]. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [Indian Council For Enviro-Legal Action v. Union of India, (1996) 5 SCC 281].

17. In Vellore Citizens' Welfare Forum v. Union of India [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647], this Court held that the "precautionary principle" is an essential feature of the principle of "sustainable development". It went on to explain the precautionary principle in the following terms : (SCC p. 658, para 11) '11. ... (i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.'

18. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718].

19. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest [M.C. Mehta v. Union of India, (2004) 12 SCC 118] . This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment." While dealing with the applications in the present set of proceedings, we shall follow the same principles."

78. To tackle this issue, the NGT has adopted the above principles in the following cases:

(i) Court on its own motion v. State of HP30:

"36. The liability of the polluter is absolute for the harm done to the environment which extends not only to compensate the victims of pollution but is also aimed to meet the cost of restoring environment and also to remove the sludge and other pollutants. [Ref: Indian Council for Enviro-Legal Action v. Union of India supra]. The Supreme Court held that the person causing pollution by carrying on any hazardous or dangerous activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his commercial or industrial activity. In the light of these principles, it is clear that the persons who are causing pollution in the eco-sensitive areas resulting in environmental hazards must be required to compensate for the damage resulting from their activity. A large number of tourists and vehicles which are using the roads and are carrying on such other activities for their enjoyment, pleasure or commercial benefits must be made to pay on the strength of the 'Polluter Pays' principle. It will be entirely uncalled for and unjustified if the tax payers' money is spent on taking preventive and control measures to protect the environment. One who pollutes must pay. We have already discussed at some length that the high tourist activity, vehicular pollution and deforestation attributable to acts of emission require to be compensated, restored and maintained in a manner that there is minimum damage and degradation of the environment. Such an approach can even be justified with reference to the doctrine of sustainable development." 2014 SCC Online NGT 1

(ii) Saloni Ailawadi v. Union of India31:

> "23.We may also observe that 'Precautionary Principle' and 'Sustainable Development' principle are part of Article 21 of the Constitution and Section 20 of the National Green Tribunal Act, 2010. 'Polluter Pays' principle does not mean polluter can pollute and pay for it. It would include environmental cost as well as direct cost to people. Environmental cost is not restricted to those which is immediately tangible but full cost for restoration of environmental degradation32. If cheat devices leading to pollution are ignored only on account of absence of a procedural protocol, it will be against the said accepted principles of environmental jurisprudence. Accepted global procedural norm can be accepted unless prohibited in India expressly or impliedly.
>
> 24.The law has to encourage honesty and fair dealing in business transactions and certainly business considerations cannot override environmental protection...." (F) DETERMINATION OF COMPENSATION

79. Now that we've discussed the aspect of liability, let us turn our attention to the determination of compensation for pollution-related damage. As highlighted earlier, polluters bear the absolute liability for the harm they cause to the environment. However, it is well known that quantifying the extent of that damage is never an easy task and is usually quite complex. Unlike tangible property damage, the harm inflicted upon ecosystems—such as the destruction of flora, fauna, aquatic life, and the disruption to micro-organisms—is not easily measurable in monetary terms. Additionally, the impact on local communities, particularly their livelihoods, is difficult to assess. The loss of biodiversity, degradation of natural resources, and long-term socio-economic 2019 SCC OnLine NGT 69 Research Foundation for Science v. Union of India, (2005) 13 SCC 186 consequences extend beyond the realm of financial valuation. Therefore, while the liability is clear, the process of determining an equitable compensation amount is fraught with challenges, as it must account for both the tangible and intangible damage inflicted on the environment and the affected communities. However, we can refer to past environmental cases, both Indian and international, to grasp the principles made therein relating to this aspect.

80. CASE LAWS

(i) Costa Rica v. Nicaragua33 The International Court of Justice, in the case titled "Certain Activities Carried Out by Nicaragua in the Border Area [Costa Rica v. Nicaragua, dated 02.02.2018], observed that the lack of certainty as to the extent of damage did not preclude awarding compensation for the impairment or loss of environmental goods and services (paras 35 and 86). The Court ultimately stated its view to the effect that "damage to the environment, and the consequent impairment or the loss of the ability of the environment to provide goods and services is compensable under international law." Thus, as per the decision of the Court, the assessment of compensation for damages requires the Court to be able to determine a causal link between the wrongful act and injury suffered. While so, it was noted that environmental damage claims had their own particular issues concerning causation as damage could be the result of multiple concurrent causes or the lack of [2018] ICJ Rep 15 scientific certainty may make it difficult to establish the causal link. In regard to the methodology to be used to value the impairment or loss of environment, goods and service, the Court explained, it would select those elements of methods offered by the Parties that provided a

"reasonable basis for valuation" to assess the value for restoration of the damaged environment (Nicaragua) as well as the impairment of loss of goods and services prior to recovery (Costa Rica) (para 53). The Court justified this approach stating that there is no prescribed method of valuation for the compensation of environmental damage under international law and the Court would have to take into account the specific circumstances and characteristics of each case. In other words, the Court was refraining from adopting a single purpose methodology for valuation of environmental damage in favor of a case-by-case approach (para 52). The Court went on to develop its own method of valuation of environmental damage "from the perspective of the ecosystem as a whole", which is an overall assessment of the impairment or loss of environment goods or services rather than separate valuation of each different category.

(ii) In Deepwater Horizen Oil Spill by British Petroleum case34, on April 20, 2010, the oil drilling rig Deepwater Horizon, operating in the Macondo Prospect in the Gulf of Mexico, exploded and sank resulting in the death of 11 workers on the Deepwater Horizon and the United States v. BP Exploration & Prod., Inc. (In re Oil Spill by the Oil Rig "Deepwater Horizon"), 21 F. Supp. 3d 657 (E.D. La. 2014) largest spill of oil in the history of marine oil drilling operations. 4 million barrels of oil flowed from the damaged Macondo well over an 87-day period, before it was finally capped on July 15, 2010. The United States filed a complaint in District Court against BP Exploration & Production and several other defendants alleged to be responsible for the spill. This led to multiple civil and criminal actions being initiated and billions of dollars in fine, settlements and restoration effort. The Polluters claimed the award to be a one- time payment, however, the British petroleum, allied companies and individuals were held liable on the basis of polluter pays principle being an absolute and continuing liability extending to restoration to a pre damage state of affairs. The litigation lasted three phases, numerous lawsuits and a final settlement of 20 billion US Dollars after the appeal was rejected by the US Supreme Court in 2015.

(iii)In M.C. Mehta (supra), while dealing with Kanpur tanneries, this court has pointed out in paragraph 14, as follows:

> 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 waste water 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 area 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.

(iv) The aspect of determining compensation has been dealt with in detail in Adil Ansari vs M/S Gupta Exports and Ors, in Original Application No. 220/2019, wherein the National Green Tribunal observed as follows:

"Calculating environmental compensation:

514.Taking into consideration multifarious situations relating to violation of environmental laws vis-a-vis different proponents, nature of cases involving violation of environmental laws can be categorized as under:

(i) Where Project/Activities are carried out without obtaining requisite statutory permissions/consents/clearances/NOC etc., affecting environment and ecology. For example, EC under EIA 2006; Consent under Water Act, 1974 and Air Act, 1981;

Authorisation under Solid Waste Management Rules, 2016 and other Rules; and NOC for extraction and use of ground water, wherever applicable, and similar requirements under other statutes.

(ii) Where proponents have violated conditions imposed under statutory Permissions, Consents, Clearances, NOC etc. affecting environment and ecology.

(iii) Where Proponents have carried out their activities causing damage to environment and ecology by not following standards/norms regarding cleanliness/pollution of air, water etc.

515. The above categories are further sub-divided, i.e., where the polluters/violators are corporate bodies/organisations/associations and group of the people, in contradistinction, to individuals; and another category, the individuals themselves responsible for such pollution.

516. Further category among above classification is, where, besides pollution of environment, proponents/violators action also affect the community at large regarding its source of livelihood, health etc.

517. The next relevant aspect is, whether damage to environment is irreversible, permanent or is capable of wholly or partially restoration/remediation.

518. Determination/computation/assessment of environmental compensation must, not only conform the requirement of restoration/remediation but should also take care of damage caused to the environment, to the community, if any, and should also be preventive, deterrent and to some extent, must have an element of "being punitive." The idea is not only for restoration/remediation or to mitigate damage/loss to environment, but also to discourage people/proponents from indulging in the activities or carrying out their affairs in such a manner so as to cause damage/loss to environment.

519. To impose appropriate 'environmental compensation' for causing harm to environment, besides other relevant factors as pointed out, one has to understand the kind and nature of 'Harmness cost'. This includes risk assessment. The concept of risk assessment will include human-health risk assessment and ecological risk assessment. U.S. Environmental Protection Agency has provided a guideline to understand harm caused to environment as well as people. For the purpose of human-health risk assessment, it comprised of three broad steps, namely, planning and problem formulation; effects and exposure assessment and risk categorization. The first part involves participation of stakeholders and others to get input; in the second aspect health effect of hazardous substances as well as likelihood and level of exposure to the pollutant are examined and the third step involves integration of effects and exposure assessment to determine risk.

520. Similarly, ecological risk assessment is an approach to determine risk of environmental harm by human activities. Here also we can find answer following three major steps, i.e., problem codification; analysis of exposure and risk characterization. First part encompasses identification of risk and what needs to be protected. Second step insists upon crystallization of factors that are exposed, degree to exposure and whether exposure is likely or not to cause adverse ecological effects. Third step is comprised of two components, i.e., risk assessment and risk description.

521. In totality, problem is multi-fold and multi-angular. Solution is not straight but involves various shades and nuances and vary from case to case. Even Internationally, there is no thumb-rule to make assessment of damage and loss caused to environment due to activities carried out individually or collectively by the people, and for remediation/restoration. Different considerations are applicable and have been applied.

...

525. When there is collective violation, sometimes the issue arose about apportionment of cost. Where more than one violator is indulged, apportionment may not be equal since user's respective capacity to produce waste, contribution of different categories to overall costs etc. would be relevant. The element of economic benefit to company resulting from violation is also an important aspect to be considered, otherwise observations of Supreme Court that the amount of environmental compensation must be deterrent, will become obliterated. Article 14 of the Constitution says that unequal cannot be treated equally, and it has also to be taken care.

Determination/assessment/computation of environmental compensation cannot be arbitrary. It must be founded on some objective and intelligible considerations and criteria. Simultaneously, Supreme Court also said that its calculations must be based on a principle which is simple and can be applied easily. In other words, it can be said that wherever Court finds it appropriate, expert's assessment can be sought but sometimes experts also go by their own convictions and belief and fail to take into account judicial precedents which have advanced cause of environment by applying the principles of 'sustainable development', 'precautionary approach' and 'polluter pays', etc.

526. Clean-up cost or TPC, may be a relevant factor to evaluate damage, but in the diverse conditions as available in this Country, no single factor or formula may serve the purpose.

Determination should be a quantitative estimation; the amount must be deterrent to polluter/violator and though there is some element of subjectivity but broadly assessment/computation must be founded on objective considerations. Appropriate compensation must be determined to cover not only the aspect of violation of law on the part of polluter/violator but also damage to the environment, its remediation/restoration, loss to the community at large and other relevant factors like deterrence, element of penalty etc."

81. Further, certain guidelines for determining compensation have already been established. It is to be noted that the Principal Bench of the NGT vide order dated 31.08.2018 in the matter of Paryavaran Suraksha Samiti & another v. Union of India & Ors. WP (CIVIL) No. 375/2012 observed that "CPCB may also assess and recover compensation for the damage caused to the environment and the said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the CPCB within three months". Accordingly, the CPCB in its report published on July 15, 2019 laid down the formula for computation of environmental compensation. The formula for computing environment compensation was accepted by the NGT vide its order dated August 28, 2019 in Paryavaran Suraksha Samiti (supra). The said formula is:

> EC = PI x N x R x S x LF Wherein, EC stands for Environmental Compensation in INR, PI stands for Pollution Index of industrial sector, N stands for Number of days the violation took place, R stands for a factor in INR ( ) for compensation for the environmental harm caused by the industry, S stands for factor for scale of operation and LF stands for location factor.
>
> While the CPCB and State Pollution Control Boards (SPCB) largely appear to be following this formula, the NGT also took various other approaches towards determining environmental compensation. It seems that NGT has primarily adopted two methods for the imposition of environmental compensation: (a) levying 5-10% of the project cost as environmental compensation if it finds the industry to be defaulting; or (b) using a percentage of the annual turnover of the industry as the method for determining environmental compensation.
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> (G) GOVERNMENT PAY PRINCIPLE VIS-À-VIS RESPONSIBILITY OF THE GOVERNMENT
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> 82. It is also apposite to state that while polluters bear absolute liability to compensate for environmental damage, the Governments (both Union and State) share an equally significant responsibility to prevent environmental degradation and ensure the implementation of effective remedial action. Moreover, Sections 3 and 5 of the Environment (Protection) Act, 1986, empower the Central Government to issue directions. Thus, the Central Government, with the assistance of the State Government, RPCB or any other agency or authority, authorized, empowered or constituted by it, if so required, is entrusted with determining the amount required for remedial measures, ensuring its recovery, and overseeing their execution. In fact,

in Tata Housing Development Company Ltd v. Aalok Jagga and others35 it was observed as follows:

"35. In Indian Council for Enviro Legal Action vs. Union of India and others, (1996) 5 SCC 281, this Court has made the following observations:

'41. With rapid industrialisation taking place, there is an increasing threat to the maintenance of the ecological balance. The general public is becoming aware of the need to protect environment. Even though, laws have been passed for the protection of environment, the enforcement of the same has been tardy, to say the least. With the governmental authorities not showing any concern with the enforcement of the said Acts, and with the development taking place for personal gains at the expense of environment and with disregard of the mandatory provisions of law, some public-spirited persons have been initiating public interest litigations. The legal position relating to the exercise of jurisdiction by the courts for preventing environmental degradation and thereby, seeking to protect the fundamental rights of the citizens, is now well settled by various decisions of this Court. The primary effort of the court, while dealing with the environmental-related issues, is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. The courts, in a way, act as the guardian of the people's fundamental rights but in regard to many technical matters, the courts may not be fully equipped. Perforce, it has to rely on outside agencies for reports and recommendations whereupon orders have been passed from time to time. Even though, it is not the function of the court to see the day-to-day enforcement of the law, that being the function of the Executive, but because of the non-functioning of the enforcement agencies, the courts as of necessity have had to pass orders directing the enforcement agencies to implement the law."

83. Furthermore, we are also well aware that mere imposition of liability might not have much impact unless it is accompanied by strict enforceability. As mentioned earlier, in India, despite laws like the Water Act, 1974, and Environment Protection Act, 1986, enforcement mechanisms remain weak, as evidenced by persistent pollution in the river, (2019) 14 SCALE 641 28 years after a court judgment in Vellore Citizens Welfare Forum (supra). We are conscious of the fact that normally the government cannot be held liable for the action of third parties. But, the State, which is entrusted with the duty to protect not only its citizens but also the environment, cannot absolve itself from its failure in implementing the laws and allowing the activities that continue in violation of the laws. The role of the State is not restricted to initial verification but also extends to continuous inspection and to ensure compliance of all laws and orders. It is pertinent to mention that the States could enforce the compliances of all the laws and the orders even during renewal of any licences.

Therefore, it is equally important to recognize the role of the Government and other regulatory bodies as well to impose upon them, a responsibility with penalizing consequences in ensuring strict compliance with the orders and directions given by the Courts as well as the applicable environmental laws and principles. In other words, while the "Polluters Pay Principle" focuses on directly penalizing offenders, its effectiveness is inherently tied to the vigilance and enforcement mechanisms of the Government and regulatory bodies, and thus, in situations where authorities fail to regulate polluters adequately, the resultant environmental degradation underscores a shared responsibility. The 'Government Pay Principle' emerges from this context, aiming to hold governments accountable for regulatory and enforcement lapses. Examples from countries like South Africa, and Chile demonstrate how holding governments accountable can drive proactive environmental protection measures:

> (a) In the late 1980s, South Africa witnessed a shift towards government compensation for environmental harm caused by private injurers, which led to legislative intervention.

Section 19 of the Environmental Conservation Act, 73 of 1989 empowers the government to take the necessary steps to repair the damage and to recover the cost from the polluter for its failure to take adequate measures 36.

(b) In Chile37, the Framework Law contains provisions for citizen-suits to address environmental harm. The law allows individuals to initiate legal actions against local governments to recover the compensation for environmental damage. It provides that victims of environmental harm may require the municipality in which the activity damaging the environment occurred to take action on their behalf, holding the municipality jointly and severally liable for the environmental damage suffered by the petitioner in cases of government inaction.

(c) In Fundacio□n Natura contra Petro Ecuador case38, an Ecuadorian court, when approached by an environmental activist NGO, ordered the state agency to assess the damage and to compensate the community, holding that the state could sue the corporation once the assessment was completed.

Section 19 and 20 Environmental Conservation Act 73 of 1989.

Sullivan, M. (1996). Chilean environmental law. Comparative Environmental Law, 1. CHL-16 (Nicholas A. Robinson ed., 1996) Fundacio□n Natura contra Petro Ecuador de la Provincia de Buenos Aires, Expediente No. 221-98-RA Corte Constitucional de Ecuador, 1998), upholding Fundacio□n Natura contra Petro Ecuador, Expediente No 1314 (Juzgado decimo primero de lo civil de Pichincga, April 15, 1998).

Thus, by holding the Governments accountable, the approach ensures a dual-layered system of responsibility, fostering more stringent oversight and proactive environmental governance. In fact, the National Green Tribunal (NGT) has already adopted similar approaches by ordering Governments to compensate victims and recover costs from polluters in the decision cited supra.

(H) REDUCTION OF POLLUTION

84. Some of the techniques / methodologies / approaches followed to reduce the pollution caused by the industries are as under:

> (a) EXTENDED PRODUCER RESPONSIBILITY (EPR) It is a policy that generally makes producers' responsible for the environmental impact of their products throughout their lifecycle. In the present case, the tannery industries owe a duty of care to the environment and are accountable. EPR can serve as a pivotal strategy to mitigate pollution and ensure sustainable waste management. Tanneries must adopt traceability systems to track waste generation, treatment, and recycling, ensuring accountability. Financial mechanisms such as environmental fees and deposit-refund systems could incentivize compliance, while penalties and license revocation would deter violations. We are also of the view that the responsibility must not be restricted just until the life cycle of the product but also must extend until the effects are controlled, nullified and restoration is executed.
>
> (b) EMISSION STANDARDS - COMMAND AND CONTROL PRINCIPLE Emission standards are regulatory limits that specify the maximum allowable levels of pollutants released into the environment, aiming to protect public health and preserve environmental quality. These standards are a key element of the Command and Control (CAC) principle, where governments set clear, enforceable rules to limit pollution. Under this approach, industries must comply with specific emission limits, with penalties such as fines or imprisonment (e.g., under the Water Act) for non-compliance. In addition to setting pollutant thresholds, regulators should also implement ambient standards, focusing on the overall quality of air, water, and soil by controlling pollution concentrations.

Moreover, technology standards can be enforced, requiring industries to use specific pollution-control technologies to meet these regulatory requirements. Implementing these standards for the tannery industry can effectively reduce pollution and ensure long-term environmental protection.

(c) REGULAR IMPACT ASSESSMENT While many countries have made regular monitoring a part of their Environmental Impact Assessment (EIA) process, India officially recognized the need for ongoing assessments only in 2020. This development marks a significant step forward in ensuring that the environmental impacts of projects are not only evaluated before they begin but are also continuously monitored throughout their operational lifespan. Therefore, similar to the mandatory EIA under the Environment Protection Act, a Regular Impact Assessment (RIA) should be made mandatory for all industries identified as polluting. The tanneries must be directed submit periodical reports of the emissions, and the States and their mechanism must conduct independent audit of the emissions and take appropriate action. Without such regular assessments, court orders and regulatory measures risk being ineffective in addressing long-term environmental harm.

(d) EFFLUENT CHARGES/TAX An effluent charge is a financial penalty or tax imposed by government authorities on polluters, based on the amount of effluent discharged into the environment, typically calculated in rupees per unit of pollution. As an additional recommendation, the charge can be structured to apply specifically to effluent released beyond the permissible limit, with industries paying a tax per unit of excess pollution. This approach aligns with Pigouvian taxes (pollution taxes), designed to internalize the environmental costs of pollution. In India, introducing industry-specific effluent charges would not only incentivize industries to reduce their environmental impact but also help fund necessary pollution control measures.

One key benefit of effluent charges is that they provide a mechanism for collecting detailed financial and technological data from each polluting source. Unlike emission standards, which primarily focus on limiting the volume of pollution, effluent charges require continuous monitoring of both the quantity of effluent discharged and the technologies used to mitigate it. This enhanced data collection improves regulatory enforcement and allows for more targeted, effective pollution control strategies, ensuring that industries are held accountable for their environmental impact.

(e) POLLUTANT RELEASE AND TRANSFER REGISTER (PRTR) PARTICIPATORY CITIZENS APPROACH

The Pollutant Release and Transfer Register (PRTR) is a system that collects and disseminates information about hazardous substance emissions and transfers from industrial facilities, ensuring transparency and community access to environmental data. Established in response to events like the Bhopal Disaster and the Rio Earth Summit (1992), PRTRs promote environmental education and participatory decision-making under the Aarhus Convention, 1998, which emphasizes three pillars: (a) Access to Information—citizens have the right to obtain environmental data, which authorities must provide transparently; (b) Public Participation—people must be informed and involved in environmental decision-making to enhance outcomes and legitimacy; and (c) Access to Justice—citizens can seek legal recourse for violations of environmental laws. Despite global adoption by countries like the U.S., Canada, and Turkey, India has yet to recognize citizens' "right to know," underscoring the need for public access to such crucial environmental information. Though under the Right to Information Act, 2005, information can be collected from the State or Central Board, the Board can disclose the compliance details, violations or actions taken by it, only if the particulars are readily available with it. Therefore, in public interest, the State/Central governments or Boards/departments must issue appropriate instructions or guidelines mandating the industries to disclose the periodical reports in the websites. Such conditions can also be imposed while granting or renewal of any licence or by introducing the same by including such conditions as mandates for compliance of Corporate Social Responsibility (CSR). Another emerging concept in the corporate world is the Environmental, Social Governance (ESG), a positive step by the corporates to pledge their commitment to preserve the ecology by assessing their impact on the environment. An interplay between the CSR and ESG ought to be facilitated to ensure not only compliance of the norms but also to ensure voluntary disclosure.

ITALIAN TANNERIES – A CASE STUDY

85. One of the challenges in ensuring environmental compliance within India's tanning industry is that the majority of businesses fall under the Small and Medium Enterprises (SME) category, with only a few large-scale entities in Tamil Nadu and Uttar Pradesh. Similarly, the Italian tanning industry, primarily composed of SMEs, has however managed to successfully limit pollution by focusing on the recovery, treatment, and reuse of waste products such as sewage sludge, trimmings, and shavings. According to reports, over 72% of the waste produced is sent to recovery plants, while only materials like sludges, paint residues, absorbent materials, non-recoverable poly-materials, inert materials, and a few others are disposed of. Additionally, the industry operates an interconnected system for exchanging waste products, which minimizes both waste and costs. Further, wastewater is treated and reused, reducing the reliance on fresh water and preventing pollution in rivers, canals, and groundwater. To achieve similar environmental benefits, India's tanning industry should adopt best practices for wastewater reuse, including recovering chromium for reuse. Government-supported, consortium-based wastewater treatment plants where water is reused would help safeguard the fragile ecosystem.

86. In People Health and Development Council, represented by its Secretary, Erode-5 vs State of Tamil Nadu and Another39, the Madras High Court has pointed out certain effluent reduction measures as under:

> "22.The Board has also suggested that the parameter TDS in the effluent discharged from the existing primary and secondary treatment system could be contained less than 2100 mg/lit. under the individual Effluent Treatment Plants only by implementing suitable membrane technologies (Reverse Osmosis System) with suitable evaporation system for the rejects as tertiary treatment. By implementing the said R.O. system, the standards of 2100 mg/lit. for TDS could be achieved and further the permeate of R.O. system could be reused completely in the tanning process implementing the membrane technologies the effluent generated in the tanning process could be completely recovered and reused in the process, leaving a small quantity of rejects which could be evaporated through suitable evaporation systems, and discharge of treated effluent not satisfying the norms either on land for irrigation or on land for open percolation/into water courses could be avoided. The discharge of effluent by the respondent tanneries, after treatment in their existing treatment systems, on land for irrigation, without complying the TDS norms either within unit premises or land outside the premises owned by the unit cannot be construed as zero discharge system.
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> 2005 SCC OnLine Mad 110
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> 23.In the light of our discussion, it is clear that though all the tanneries in and around Kalingarayan channel and Bhavani River have Effluent Treatment Plants, in the absence of implementation of suitable membrane technologies, namely, Reverse Osmosis system (R.O. system), the TDS in the effluent discharged from the existing treatment system is not under control. Undoubtedly, all the tanneries and dying factories have to strictly adhere to the norms namely that the effluent discharge

> either on land or any water course shall not contain constituents in excess of the tolerance limit laid down for TDS as 2100 mg/lit. In order to achieve this goal, they have to adopt and implement suitable membrane technologies, Reverse Osmosis system with evaporation system for the rejects as tertiary system. This will go a long way in curbing the environmental hazard. For compliance of the same, this Court feels that a further reasonable time may be granted. Accordingly, all the tanneries/dyeing units located in Erode District are granted time till 31-08-2005. The District Collector and the officers of the TNPCB are directed to give wide publicity in the area concerned regarding the direction and the extension of time granted for compliance. It is made clear that those who are not willing to adhere to this direction and adopt the R.O. system, they are free to shift their concern to SIGC, Perundurai within that period. The Collector and the officers of the Board are directed to make periodical inspection to the tanneries/dyeing units for proper implementation of the above direction. Before conclusion, as observed in M.C. Mehta v. Union of India , though we are conscious of the fact that these tanneries bring more employment and revenue, but life, health and ecology have greater importance to the people..."

87. United Nations Environment Programme (UNEP) through its Mediterranean Action Plan (MAP), specifically the Marine Pollution Assessment and Control Unit (MED POL) prepared a report towards a More Sustainable Tannery Sector in the Mediterranean aiming to improve environmental practices in the tanning industry across Mediterranean countries. The report has also stated few of the available tools for improving the tannery sector. BAT (Best Alternative Technique) reference document for the tanning of hides and skins forms part of a series presenting results of an exchange of information between European Union (EU) Member States, the industries concerned, non-governmental organizations promoting environmental protection and the European Commission, to draw up, review, and where necessary, update BAT reference documents as required by Article 13(1) of the Directive 2010/75/EU of the European Parliament and the Council on industrial emissions (integrated pollution prevention and control). Such references can be undertaken by the TNPCB.

(I) RELEVANT PROVISIONS UNDER THE WATER ACT

88. We will not reiterate the provisions of law related to the issue at hand as it is well settled. However, we deem it necessary to highlight the relevant provisions of the Water (Prevention and Control of Pollution) Act, 1974. The Water Act provides for the constitution of the Central and State Pollution Control Boards and empowers them to carry out a variety of functions. These include establishing quality standards, research, planning and investigations to promote cleanliness of streams and wells and to prevent and control pollution of water. Importantly, it also provides that no industry, etc. which is likely to discharge sewage or trade effluents, can be established by any person without obtaining the consent of the State Board. The aforesaid provisions are extracted below for ready reference:

> "24. Prohibition on use of stream or well for disposal of polluting matter, etc. (1) Subject to the provisions of this section,—

(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 (whether directly or indirectly) into any [stream or well or sewer or on land]40; or

(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, 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. (2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:—

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

25. Restrictions on new outlets and new discharges.— [(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988 (53 of 1988), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application. (2) An application for consent of the State Board under sub-section (1) shall be made Substituted by Act No. 53 of 1988, for the words "stream or well"

in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.] (3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may—

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii)in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.] (7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30,—

(a) the expression “new or altered outlet” means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(b) the expression “new discharge” means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

26. Provision regarding existing discharge of sewage or trade effluent.— Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a [stream or well or sewer or on land]41, the provisions of section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section [shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette].

43. Penalty for contravention of provisions of section 24 Whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than [one year and six months]42 but which may extend to six years and with fine.

44. Penalty for contravention of section 25 or section 26 Whoever contravenes the provisions of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than [one year and six months]43 but which may extend to six years and with fine.”

89. In Gujarat Pollution Control Board v. M/s. Nicosulf Indst.& Exports Pvt Ltd 44, a complaint was filed under various sections of the Water (Prevention and Control of Subs. by Act 44 of 1978, s. 13, for “stream or well” (w.e.f. 12-12-1978) Substituted by Act No. 53 of 1988, for the words "six months

Substituted by Act No. 53 of 1988, for the words "six months 2009 (2) SCC 171 Pollution) Act, 1974, against M/s. Nicosulf Industries & Exports Pvt. Ltd. and its directors for allegedly discharging 10,800 liters of polluted water daily during nicotine sulphate production, where the court held that under sections 24 and 25 of the Act, every industry is compulsorily required to obtain prior permission or approval of the Board for discharging its polluted water either within or outside the industry as per section 25(i) of the Act.

90. Additionally, in the 1983 case of U.P. Pollution Control Board v. M/s. Mohan Meakins Ltd. and Others45, relating to Gomti River pollution caused by the respondent therein, faced prolonged delays. The High court gave its judgment in 1999 and thereafter, this court held that where an offence under the Act has been committed by a company, every person who was in charge of and was responsible for the company's conduct of business, is also guilty of the offence.

91. Thus, it is evident that Vellore's current status highlights the critical consequences of unchecked industrialization and exploitation of natural resources. The district, once known for its agricultural prosperity and natural resources, now faces a grave environmental crisis driven by pollution from the tanning industries, illegal sand mining, and poor waste management. These activities have degraded vital ecosystems, polluted 2000 (3) SCC 745 water bodies like the River Palar and reduced the groundwater availability, severely impacting the livelihoods of farmers, fishermen, and local communities. 91.1. In the light of the principles outlined above, this Court has the duty to foster a more comprehensive, balanced, and sustainable approach to curb the water pollution in the river. The principles mentioned not only ensure compliance but also encourage long- term strategies for environmental protection, public health, and sustainable development. Moreover, the legal position is clear: until the damage caused by the tanneries to the ecology is reversed, the polluters have a continuing duty to pay compensation and further, it is the bounden duty of both the Central and State Governments and local authorities to prevent, protect and preserve natural resources and maintain a healthy and clean environment.

VII. ECOCIDE

92. Before we proceed with our discussions and findings, we also want to highlight the emerging concept of ecocide, which has gained significant attention in the environmental discourse. Ecocide is defined as 'unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment.' Acts such as the pollution of rivers with untreated sewage, illegal sand mining, large-scale deforestation etc. fall under this definition. The environmental damage occurring in Vellore District could even be categorized as ecocide, underscoring the urgency of addressing and halting such activities.

VIII. DISCUSSION AND FINDINGS

93. Earlier, this Court in Vellore Citizens Welfare Forum (supra) extensively considered the issue of pollution caused by tanneries in the Vellore District and its adverse impact on human lives, soil, water, agriculture, etc. and rendered a land mark decision, issuing various directions to the authorities concerned. Pursuant to the same, vide notification dated 30.09.1996, the Central

Government constituted the LoEA to assess the damage caused, frame a scheme for reversal of the damage, identify affected individuals / families and compute the compensation payable to them. Accordingly, the LoEA passed its first award on 07.03.2001, identifying 29,193 affected individuals / families in respect of 15,164.96 hectares in 186 villages within 7 Taluks of Vellore District and determined the compensation for the period from 12.08.1991 to 31.12.1998. It was clearly stated in the said award that the liability of the polluting industries continued beyond 31.12.1998 until the damage caused to the ecology and environment by pollution was fully reversed. Though the said award dated 07.03.2001 was initially challenged by the AISHTMA in WP.No.512 of 2002, the High Court affirmed the award, by order dated 22.03.2002 and hence, it attained finality. It is also to be noted that by order dated 07.04.2016, WP No.23291 of 2006 seeking a direction to the authorities to make the LoEA a permanent body, came to be dismissed by the High Court.

94. Aggrieved that the entire compensation amount awarded by the LoEA vide award dated 07.03.2001 has not been disbursed to all the affected individuals / families and only a part of it was disbursed till date; the tannery industries continuing to discharge effluents into the River Palar; and that no scheme has been framed to reverse the damage caused to the ecology by the state Government, the appellant / Vellore District Environment Monitoring Committee filed WP.No.8335 of 2008 as a Public Interest Litigation seeking directions to the authorities concerned to pay compensation for the further loss caused to the affected families from 1998 onwards until the damage caused to the ecology is reversed, etc.

95. Pending the aforesaid writ petition, the LoEA based on the orders of the High Court as well as this Court proceeded to assess the damage caused to the ecology. The AISHTMA objected to the same by filing a reply stating that the LoEA cannot investigate the pollution caused by the industries after the award dated 07.03.2001 and thereby assess the quantum of pollution. The LoEA rejected the said objection by order dated 05.05.2009, which was challenged by the AISHTMA in WP No.19017 of 2009.

96. Thereafter, the LoEA considered all the applications relating to the period from 1991-98, which were not covered by the award dated 07.03.2001 and assessed a compensation of Rs.2,91,01,278/- to be payable to 1377 affected individuals/ families, by its second award dated 24.08.2009. This award was subsequently challenged by the AISHTMA in WP.No.22683 of 2009.

97. After due contest, the High Court by two separate orders dated 08.02.2010 viz., one in W.P.Nos.8335 of 2008 and 19017 of 2009 and another in W.P.No.22683 of 2009, rejected the reliefs sought in the public interest litigation, but set aside the order dated 05.05.2009 passed by the LoEA and affirmed the second award dated 24.08.2009. These two orders are now put to challenge before us by the aggrieved parties.

98. At the outset, the learned counsel for the Respondent Nos.3 and 4 raised an objection that the AISHTMA preferred the Special Leave Petition along with an application to condone the delay of 439 days in filing the same and the same came to be registered as SLP(C)No.26608 of 2011, without there being any order condoning the said delay. The record of proceedings discloses no order regarding the condonation of delay in filing the said petition. While it may be true that the

AISHTMA in order to defeat the claim of the appellant in SLP(C)Nos.22633-22634 of 2010 filed the petition in SLP(C)No.26608 of 2011 as a counter blast, it cannot be disputed that they have been actively contesting the appeals filed by the Vellore District Environment Monitoring Committee, in their capacity as Respondent No.4 in SLP (C)No.23633 of 2010 and Respondent No.3 in SLP (C) No.23634 of 2010. Moreover, the issues involved in all the appeals are interconnected and intertwined. Therefore, in the larger public interest, we overlook the mistake committed by the Registry and condone the delay in filing the petition, though not condoned earlier.

99. As already pointed out by us, the award dated 07.03.2001 passed by the LoEA has attained finality, in view of the order dated 22.03.2002 passed by the High Court in W.P.No.512 of 2002. It is the case of the contesting respondent in SLP (C) Nos.23633- 23634 of 2010 and the appellant in SLP (C) No.26608 of 2011 / AISHTMA that the compensation and the fund determined in the said award were paid by the industries and the same were also disbursed to the affected individuals / families.

100. However, the appellant / AISHTMA challenged the subsequent award dated 24.08.2009 passed by the LoEA, mainly contending that there were no claims pending against the industries; and that the High Court, in the order dated 20.12.2007, made in W.P.No.23291 of 2006, had not issued any direction to the LoEA to consider the left-out claims for the period 1991-98 and it merely recorded the submission of the learned counsel that the LoEA would consider all the applications filed before the cut-off-date, which are pending as well as the applications filed after the cut-off-date and decide them in accordance with law and grant compensation wherever the case is made out and therefore, the industries are not liable to pay any compensation for the period 1991-1998.

101. It may be true that the High Court did not explicitly pass an order directing the LoEA to consider the left-out claims for the period from 1991-1998, but after having given an undertaking before the High Court that the left-out claims would be considered, the LoEA cannot tactically choose to shrug off the said undertaking. Moreover, only because of the undertaking given by the LoEA, the High Court deemed it unnecessary to issue such a direction, expecting that the LoEA would comply with its own undertaking. It is also pertinent to mention here that the LoEA was tasked with duty to assess the damage, identify the areas and the individuals/families affected by the pollution. While the LoEA was empowered to identify the individuals/families that have suffered during the relevant period, it goes without saying that the LoEA would have the authority to admit new claims if they are found to be genuine. The Doctrine of Implied Authority would automatically come into operation. The error or lapse, if any, on the part of the LoEA cannot affect the right of the residents who have been left out, more so considering that the right persists in view of the continuing pollution. Therefore, we reject the contention so raised by the learned counsel for the AISHTMA.

102. Apparently, vide award dated 24.08.2009, the LoEA identified 1,377 persons and determined the compensation amount to be Rs. 2,91,01,278/- for them. It was clearly stated in the said award that it was passed only in respect of the individuals / families, who were left out of the earlier award dated 07.03.2001, which has attained finality. It is also evident that the award was passed after issuing due notice to all the parties and that, the AISHTMA did not raise any grounds relating to non-adherence to the procedure for taking samples, as provided in Rule 6 of the Environment

(Protection) Rules, 1986, before the LoEA either in its reply or at the time of personal hearing. It is not the case of the AISHTMA that the samples tested are not from the tanneries. Therefore, the technical objection raised now is only an after thought. Hence, the other grounds raised by the AISHTMA with respect to violation of the principles of natural justice and the Rules, against the award dated 24.08.2009, cannot be countenanced by us.

103. Upon considering all the factors, the High Court while rejecting the challenge to the award dated 24.08.2009, referred to the left-out claims as a continuation of the earlier award and held the same as not bad in law. It was also pointed out by the High Court that by award dated 07.03.2001, the LoEA, after conducting a field survey and verifying the revenue records, filtered 1377 cases out of 7422 claims as affected individuals / families eligible for compensation due to ecological damage to their lands. By following a similar methodology, the LoEA determined a total compensation of Rs.2,91,01,278/- payable to the affected individuals / families and passed the subsequent award dated 24.08.2009. Also, the High Court rejected the appellant / AISHTMA's contention regarding limitation, holding that the polluter's liability is an absolute liability and the polluter cannot escape from the liability once it is established that it caused pollution; that, delay in passing the subsequent award will not preclude the left-out individuals / families from making any application for claiming compensation. It was further observed that the LoEA is not expected to function as a civil court, although it has to follow just and fair procedure. It was also pointed out that although the appellant / AISHTMA was not a party to the writ petition in WP.No.23291 of 2006, in which, the High Court passed the order, directing the LoEA to consider all the claims, the industries, which were found to be polluters even by this Court in Vellore Citizen Welfare Forum, cannot absolve their liability to pay compensation by applying the Polluter Pays Principle. Therefore, we do not find any reason, much less a valid reason, to interfere with the well-considered order passed by the High Court in W.P.No.22683 of 2009.

104. Next, we turn to the order passed by the High Court in W.P.Nos.8335 of 2008 and 19017 of 2009. It is the specific case of the appellant in SLP(C)No.23633 of 2010 that only a part of the compensation has been disbursed to the identified affected individuals / families and crores of rupees are yet to be collected; no scheme has been implemented for the reversal of the damage caused to ecology and environment; the industries continue to discharge effluents and they are not maintaining the standard expected of them and thus, the damage caused to the environment has only been exacerbated. Thus, this according to the appellant, entitles the affected individuals/ families to receive compensation beyond 31.12.1998 till the damage to the ecology is reversed. It is also submitted that a large number of tanneries are operating beyond the permissible limit and hence, they should be closed.

105. Though the appellant in SLP (C)No.23633 of 2010 sought multiple reliefs by filing Public Interest Litigation in W.P.No.8335 of 2008, the High Court rejected the same on the ground that except for asserting that a number of affected persons had not received the compensation amount, the appellant had not taken any steps to furnish the details of the individuals / families, who had received either only a part of the compensation amount or had not received any compensation amount at all and in the absence of supportive material, the claim of the appellant could not be entertained.

106. We are of the opinion that the details of the affected individuals / families are already available with the District Collector, and the LoEA after obtaining those particulars, has awarded compensation to them. Hence, the failure of the appellant to furnish the details regarding the receipt of compensation by the affected individuals / families, cannot be a reason to reject the claim of the appellant concerning the disbursement of compensation to all the affected individuals / families. In our view, the High Court must have directed either the District Collector or the LoEA to produce the details or in the alternative, must have directed LoEA to verify the claims and issued appropriate directions.

107. In respect of the other reliefs made by the appellant in SLP (C)Nos.23633-23634 of 2010, it is pertinent to mention that the High Court by order dated 10.04.2008 in MP.No.1 of 2008 in WP No.8335 of 2008, inter alia directed the LoEA to make enquiries as to whether the polluters complied with the conditions of the award and to assess the compensation within four months, and the damage caused to the ecology since 1999. Even in the petition filed in MP.No.2 of 2008 in WP.No.8335 of 2008 by the appellant / AISHTMA, seeking to vacate the said order dated 10.04.2008, the High Court directed the LoEA to pass the order only after hearing the contentions of the AISHTMA. Accordingly, the LoEA issued due notices to all the parties, to which, AISHTMA filed its reply. Thereafter, the LoEA passed the order dated 05.05.2009, rejecting the objection raised by AISHTMA with regard to assessing the damage caused by the tanneries to the ecology beyond 1998 in the Vellore District.

108. The order dated 05.05.2009 would demonstrate that the LoEA took note of all the contentions raised by the AISHTMA, such as, the installation of IETPs and CETPs, expenditure of crores of rupees on pollution control measures as suggested by NEERI and CLRl, and the Government owing a duty to arrest pollution on their part, industries having earned income to the Government in crores of rupees, and thus, any liability being fixed on the industries must be borne by the Government, and hence, the industries have no liability to pay any compensation subsequent to the award period and the payment under the award is one time settlement. The fact that the industries represented by AISHTMA continue to pollute and that the pollution levels have not decreased even after the installation of some pollution control devices, and noting that the process of installing reverse osmosis plants is still in its initial stages, and also in the light of the legal position that the liability to pay compensation is based on the 'Polluter Pays Principle', and the ‘Precautionary Principle' stressing the need to arrest pollution as laid down by this Court, the LoEA passed the said order dated 05.05.2009 rejecting all the contentions raised by the AISHTMA. However, the High Court erroneously set aside the said order passed by the LoEA by the order impugned herein, neglecting the object and misconstruing the scope and authority of the LoEA.

109. The learned counsel for the AISHTMA before us submitted that since the decision of this Court in Vellore Citizens Welfare Forum (supra), the Tanning Industries of Vellore District have fully complied with all the directions issued by this Court from time to time and played their role in preventing any further damage to the ecology from their side. Placing reliance on the reports of the CPCB and the TNPCB, the learned counsel submitted that all tanneries in Vellore District are either connected to CETPs or have their own IETPs and all of them are equipped with ZLD Systems which are operational and functional; and that, both the authorities have reported that no discharge of

treated or untreated effluent has been noticed either on land or into the River Palar. Furthermore, more than 80% of the water is reused and the solid wastes generated are being disposed of in a secured landfill system. It was also submitted that the industries have paid in full the compensation due to individuals/families and have also paid a fine of Rs.10,000/- each as imposed by this Court by its judgment dated 28.08.199646 towards the Environmental Protection Fund which is intended for the reversal of the damage to the ecology. Thus, according to the AISHTMA, it is for the Central and State Governments to utilize the said amount and take steps to complete the process of reversal at the earliest. The industries cannot be made liable for any alleged damage beyond 31.12.1998, as they have already taken necessary steps to control the pollution and several tanneries have installed reverse osmosis plants.

110. Indisputably, the award of the LoEA dated 07.03.2001 which was passed pursuant to the judgment of this court in Vellore Citizen Welfare Forum (supra), clearly mentioned that the liability of the industries continues until the damage caused to the ecology and Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC 647 environment by pollution is reversed. It is borne out from the records that the industries have taken steps to achieve ZLD and to reverse the damage caused to the ecology, deposited certain sums. However, the same have not been achieved till date and still remain a work in progress. In such circumstances, the industries will remain responsible for the further and continuing pollution caused to the ecology. Therefore, the alleged payment of fine of Rs.10,000/- each towards the Environmental Protection Fund made by the industries cannot absolve them of their liability to pay compensation until the damage to the ecology is reversed by meeting the standards prescribed by the Pollution Control Board and by adhering to the schemes implemented and directions passed by the government. Though the leather industry in India has become a major source of foreign exchange and Tamil Nadu is presently the leading exporter of finished leather, accounting for approximately 80 percent of the country's export, the same does not give the industry the right to destroy the ecology, degrade the environment and pose a threat to health of the residents. In such view of the matter, the order of the High Court passed in WP Nos.8335 of 2008 and 17019 of 2009, requires some degree of interference by us.

111. According to the AISHTMA, they have already deposited Rs.26.82 crores towards compensation for the affected families / individuals, in addition to Rs.3.66 crores towards the Environmental Protection Fund for the purpose of reversal and restoration of the ecology between 1991-98. As per the awards dated 07.03.2001 and 24.08.2009 passed by the LoEA, the total compensation payable to the affected individuals / families amounts to Rs.29.73 Crores. The supplementary affidavit dated 29.11.2013 filed by the Additional Chief Secretary to Government, Environment & Forest Department, Govt. of Tamil Nadu, clearly outlined the collection of compensation amounts from the tanneries, the details of which are as follows:

1. Total number of tanneries responsible for 547 payment of compensation

2. Total amount to be collected from the 29.73 crores tanneries for compensation as fixed by the Loss of Ecology Authority for two awards (Rs.26.82 + Rs.2.91 crores)

3. Total amount to be collected from the 3.66 crores tanneries for reversal of Ecology

4. Total amount to be collected (2 + 3) 33.39 crores

5. Amount collected as on 22.08.2013 27.67 crores

6. Amount collected from 23.08.2013 to 06.09.2013 1.13 crores

7. Total amount collected as on 07.09.2013 (5+6) 28.80 crores

8. Balance as on 07.09.2013 (4-7) 4.59 crores

9. Less non-collectable balance 0.87 crores

10. Net collectable balance 3.72 crores The aforesaid affidavit further disclosed that pursuant to the order of this Court, dated 20.02.2013 in SLP(C)Nos.23633-23634 of 2010, a compensation amount of Rs.4.48 crores was disbursed to the affected individuals / families by the District authorities.

Additionally, an amount of Rs.1.15 crores is held by the Divisional officers which would be disbursed as and when the issues are settled, either through court of law or out of court.

112. The reports filed by the TNPCB and CPCB clearly state that 8 CETPs along with their Member units and 26 IETPs are equipped with operational and functional ZLD Plants; regular monitoring is being carried out by the TNPCB to ensure proper functioning of the ZLD Plants; and any directions, in case of violations, are being complied with by the concerned units. All the CETPs and IETPs are connected to the Care Air Centre for Online Monitoring by both TNPCB and CPCB. Reverse Osmosis Plants have been established in most of the Units, while steps are being taken to establish them in the remaining units under the supervision of the State Pollution Control Board. However, there is no concrete assertion that ZLD has been fully achieved by the industries. Further, the report reveals that STPs have been provided for Sewage management in only two municipalities and untreated sewage continues to be discharged into the river.

113. Admittedly, the standard upper limit of pollution in treated effluent is 2100 mg/1 of TDS content and the same has not been maintained by the industries. The same level of pollution is present in wells and other water sources in the areas. Hence, the industries which continue to pollute the environment, and thereby violate Section 24 of the Water (Prevention and Control of Pollution) Act, 1974, cannot absolve themselves of their liability, merely on the ground that some payment was made by them to the Government in compliance with the directions of this Court. The liability of the industries for the pollution caused by them did not cease in the year 1998 by merely paying the compensation amount. Rather it is a continuing liability that persists until the actual pollution is curbed/ its effects reversed. In other words, the polluting industries are liable to reverse the damage to the environment and ecology as long as the tanneries continue to pollute the environment. At the same time, the Government has not implemented the scheme for reversal and restoration of ecology till date, despite the LoEA having drafted the same in the year 2001 itself. While it may be true that the details of the affected individuals / families cannot be ascertained at

this distant point of time, this alone cannot be a reason to withhold the compensation amount payable to the affected individuals / families, until the damage caused to the ecology is reversed. Therefore, we have no hesitation to hold that by applying the Government Pay Principle, it is for the Government to pay compensation to the affected individuals / families and recover the same from the polluters, until the damage caused to the ecology is fully reversed. Accordingly, the order passed by the High Court is liable to be modified by this Court.

IX. CONCLUSION

114. The overall analysis clearly demonstrates that tanneries are among the most polluting industries and the damage caused by them by discharging untreated or partially treated effluents into the River Palar and surrounding areas, has resulted in irreversible damage to the water bodies, groundwater, and agricultural lands. This environmental degradation has impoverished local farmers and has caused immense suffering to the local residents and the tannery workers, thereby endangering public health and life. In fact, it would not be wrong to say that the condition of tannery workers is no better than that of manual scavengers. With a majority of workers being women, the situation is even more distressing. It is also abundantly clear that the discharges were neither authorized nor in compliance with the standards set by the Pollution Control Boards. Though the reports indicate the establishment of CETPs and IETPs, the industries have still not achieved ZLD, till date. Furthermore, the industries have not complied with the extant statutory guidelines framed by the Government as per the appellant / Vellore District Environment Monitoring Committee. At the same time, the report also reveals that the tannery industry is not the sole polluter affecting the river. Other pollutant, such as untreated sewage and solid wastes generated in the towns are also being dumped into the river. Despite the responsibility of the municipalities to treat sewage, no effective steps have been taken and untreated sewage continues to be released directly into the river. It is disheartening to hear a worker describe the chemical pollution as “so powerful it can melt the dead - it’s only a matter of time before it begins to melt the living”. All of this occurs while various Supreme Court directives and environmental norms are flouted, and the schemes or plans framed by the Government remain on paper, failing to achieve any meaningful results. Thus, this Court, being the custodian of fundamental rights, must come to the rescue of the affected individuals / families and ensure that persistent wrongs are rectified and justice is actually done.

X. RESULT

115. Therefore, we deem it fit to issue certain directions to the stake holders, which are as under:

> (i) The State government is directed to pay the compensation amount to all the affected families / individuals, if not already paid, in terms of the awards dated 07.03.2001 and 24.08.2009 passed by the LoEA within six weeks from today,
>
> (ii) The State government is also directed to recover the compensation amount from the polluters, if not already recovered, by initiating proceedings under the Revenue Recovery Act or through any other means permissible by law.

(iii) The State government in consultation with the Central Government, shall within a period of four weeks, constitute a committee, under the chairmanship of a retired High Court Judge and members, comprising of the Secretaries of both the State and Central Departments, environmental experts, representatives from the affected communities, and any other person as it deems fit, for the purpose of conducting an audit to identify, maintain and create a clean and healthy environment in Vellore District.

(iv) The Committee shall carry out the following tasks and ensure its implementation until the damage caused to the ecology is reversed:

(a) In view of the decision arrived at by us, the committee shall scrutinize applications received from affected individuals/families seeking compensation beyond 1998, assess their claims, award compensation, and disburse it from the fund maintained by the Government.

(b) Formulate a comprehensive scheme to reverse the ecological damage in the affected areas. Such a scheme shall incorporate advanced techniques and best practices, as applicable, adopted by other State Governments and foreign countries.

(c) Issue appropriate directions to the State/Central Pollution Control Board and departments to prohibit industries and municipalities from discharging untreated effluents into the River Palar and other water bodies.

(d) Identify critical zones in the district as No Discharge Zones to safeguard the quality of water resources, particularly groundwater, from contamination by industrial and domestic waste.

(e) Identify locations where new CETPs and IETPs are required, and where industries can be feasibly connected to these systems. Based on the same, direct the establishment of such plants to strengthen the pollution control infrastructure.

(f) Address the deficiencies of existing CETPs, IETPs, and other pollution control mechanisms by ensuring their effective functioning and proper maintenance.

(g) Make any other recommendations that may be required to ensure continuous monitoring and compliance of the standards to ensure ZLD within a period of three months and submit a report to the State and central Governments/Boards which shall be implemented by the State/Central Government/Board,

(h) Ensure that State Pollution Control Board / Central Pollution Control Board is strictly complying with the relevant guidelines for monitoring and regulating the industries and file a report before this Court within four months from the date of constitution,

(v) Since pollution is a continuing wrong until the condition is reversed, the polluters shall be liable to compensate the victims and liable for the damage and the Committee constituted as per direction (iii) LoEA (present) is directed to periodically assess and pass appropriate orders till then,

(vi) the State shall implement the suggestions of the committee to formulate and implement a comprehensive rejuvenation plan for the Palar River, which includes removing pollutants, desilting, and ensuring adequate water flow and direct the concerned authorities and bodies to accomplish the same within a time frame,

(vii) The State shall ensure quarterly inspections of tanning industries in the district to assess compliance with environmental regulations and publish a report in its website disclosing all the material particulars. The inspection team shall verify whether the industries are established within permissible distances from prohibited zones, the status of ZLD compliance by the industries, and other relevant aspects.

(viii) the State shall facilitate a conduct of environment audit of each river in the State, ascertain the pollution, degradation, change in storage capacity, depletion of groundwater level and publish the results in the website, newspapers, media, and other public platforms,

(ix) the State shall mandate the installation of IoT-based sensors at discharge points, rivers, and groundwater wells to monitor water quality in real time.

(x) the State shall direct that AI systems shall be employed to analyze the data collected from IoT sensors and industry discharge reports, and any discrepancies from prescribed discharge limits shall be flagged for prompt regulatory response,

(xi) The State Pollution Control Board / Central Pollution Control Board shall in co-ordination with State government, set emission standards for the tannery industry in alignment with international environmental standards and take into consideration the recommendations of national and international regulatory bodies. Additionally, assess the feasibility of imposing effluent charges, which would be levied per unit of waste or discharge released, as a penal measure to enforce compliance,

(xii) The State Pollution Control Board /Central Pollution Control Board shall direct the industries to display effluent and discharge data, including chemical composition, on a publicly accessible notice board every three days and in case the standards are not met, direct the authorities to ensure compliance with the prescribed norms.

(xiii) The Central Government/Central Pollution Control Board shall issue appropriate directions to align the ESG and CSR of the industry/tannery towards voluntary disclosure and compliance of environmental norms,

(xiv) the State Pollution Control Board shall establish platforms through which citizens can report pollution incidents and monitor the corrective actions taken.

(xv) the authorities concerned shall take immediate and strict action against industries that fail to meet compliance standards, including closure in cases of persistent violations.

(xvi) The licencing authorities couched with the power to issue licences, are by virtue of the implied authority, entitled to cancel such licence/permits, not only for the fraud or the misrepresentation made to secure to such licence, but also for violation of the terms and conditions of such licence and any other applicable law, as any licence granted by an authority cannot be used to violate any law of the land and there cannot be any estoppel against law, (xvii) the State Pollution Control Board shall direct industries and relevant authorities to prioritize the reuse and recycling of waste generated, and work towards the development of sustainable solutions.

(xviii) the State Pollution Control Board shall publish real-time water quality data on an open-access platform to ensure transparency.

(xix) the State/Pollution Control Board shall order the construction and operationalisation of adequate Sewage Treatment Plants (STPs) in urban and peri-urban areas to address wastewater management.

(xx) the State/ Pollution Control Board shall issue appropriate directions to ensure that all workers are provided with protective gear and that adequate emergency protocols are in place to prevent untoward incidents and the provisions of the Factories Act and other labour laws, including coverage of health and life insurance schemes, are followed in strict compliance, (xxi) the State shall direct that every industry/tanner is to conduct annual health checkups for workers to detect potential risks of cancer and other severe diseases and ensure that prompt medical assistance should be provided, ensuring that workers are not left to fend for themselves.

(xxii) The CLRI, MoeF etc., shall invest more resources in training and promoting their eco-friendly technologies to ensure their wide adoption by the industries. The State shall ensure that the industries adopt and follow technologies, suggest by CLRI, MoEF and other relevant authorities to ensure strict compliance with the norms and to ensure ZLD and meet the prescribed standards, (xxiii) The authority concerned shall direct the Bureau of Indian Standards and relevant industries to explore the possibility of an ethical and sustainability mark/tag, enabling consumers to make informed choices.

(xxiv) The State government shall ensure the implementation of the ban on illegal sand mining and establish a monitoring committee to oversee sand mining operations, utilizing real-time surveillance mechanisms such as drones and GPS,

implement stringent action against offenders, including the perpetual seizure of equipment and vehicles involved in illegal mining activities.

(xxv) The State shall form a state-level committee comprising representatives from the Central Pollution Control Board (CPCB), the State Pollution Control Board (SPCB), and the Secretary of Home. This committee should be responsible for presenting an annual compliance report to the concerned High Court or National Green Tribunal (NGT). The CPCB must ensure and render complete co-operation,
(xxvi) The primary task of enforcement lies with the State Pollution Control Boards and concerned District Magistrates. Hence, the State government shall set up a District Level Committee. Any complaint to the District Level Committee headed by the District Magistrate and comprising of SPCB officials must be addressed within 30 days, if there is delay, grounds be conveyed to the complainant. Any complaints against the action which includes inaction shall lie before the State Level Committee and if still the issue is not resolved, NGT may be approached.

(xxvii) the State shall promote schemes/programmes and seminars to promote, encourage, and raise awareness regarding an ecosystem-based approach to water management, co-

ordinate with concerned bodies to rehabilitate wetlands, protect riparian zones, and enhance the overall ecological health of water bodies.

(xxviii) The Central and State Governments shall take adequate measures and allocate funds to maintain a clean and healthy environment.

116. With the aforesaid observations and directions,

(a) the order passed by the High Court in WP Nos.8335 of 2008 and 19017 of 2009 stands modified and the appeals filed by the Vellore District Environment Monitoring Committee stands disposed of; and

(b) the order passed by the High Court in WP No. 22683 of 2009, thereby confirming the award dated 24.08.2009 passed by the LoEA, is upheld and the appeal filed by the AISHTMA is dismissed.

117. There is no order as to costs. Connected miscellaneous application(s), if any, shall stand disposed of.

118. Post the matters after four months “for reporting compliance”.

.....J. [J.B. Pardiwala] .....J. [R. Mahadevan] NEW DELHI JANUARY 30, 2025.