

VELLORE CITIZENS WELFARE FORUM

v/s

UNION OF INDIA

CITATION

Writ Petition (C) No. 914 of 1991

DATE OF JUDGEMENT

28/08/1996

BENCH

Justice Kuldeep Singh
Justice Faizan Uddin
Justice K. Venkataswami

COURT

Supreme Court

PETITIONER

Vellore Citizens Welfare Forum

RESPONDENT

Union of India and Others

FACTS OF THE CASE :-

In the present case the Petitioner, Vellore Citizens Welfare Forum, filed a PIL under Article 32 of the Constitution. The Petition was filed against the water pollution caused due to excessive release of pollutants by the tanneries and other industries in the state of Tamil Nadu into the river Palar. Palar River was the main source of water for the livelihood of the surrounding people. Later, the Tamil Nadu Agricultural University Research Center, Vellore discovered that approximately 35,000 hectares of agricultural land has turned either entirely or partially barren and not fit for cultivation. This is one of the landmark cases whereby the Supreme Court critically analyzed the relationship between environment and industrial development.

Palar which is the main source of water supply to the residents of the area. According to the petitioner the entire surface sub-soil water of river Palar has been polluted resulting in non-availability of potable water to the residents of the area. It is stated that the tanneries in the state of Tamil Nadu have caused environmental degradation in the area.

According to the preliminary survey made by the Tamil Nadu Agricultural University Research Center Vellore nearly 35000 hectares of Agricultural land in the Tanneries Belt, has become either partially or totally unfit for cultivation. It has been further stated in the petition that the tanneries use about 170 types of chemicals in the chrome tanning processes. The said chemicals include sodium chloride, lime, sodium sulphate, chlorium sulphate, fat liquor Amonia and sulphuric acid besides dyes which are used in large quantities. Nearly 35 litres of water is used for processing one kilogram of finished leather, resulting in dangerously enormous quantities of toxic effluents being let out in the open by the tanning industry. These effluents have spoiled the physico-chemical properties of the soil, and have contaminated ground water by percolation. According to the petitioner an independent survey conducted by Peace Members, a non-governmental organisation, covering 13 villages of Dindigal and Peddiar Chatram Anchayat Unions, reveals that 350 wells out of 467 used for drinking and irrigation purposes have been polluted, women and children have to walk miles to get drinking water.

ISSUE UNDER CONSIDERATION :-

Whether the tanneries should be permitted to keep on working at the expenses of the health of individuals and environment?

ARGUMENTS FROM THE PARTIES :-

PETITIONER :-

The Learned Counsel of the Petitioner argued that the whole surface and sub-soil water of river Palar has been intoxicated and as a result, it has turned out non-accessible for consumption to the inhabitants of the region. They further contented that the tanneries in the state of Tamil Nadu have caused serious damage to the environment in the region. A study conducted by a non-administrative association covering 13 towns of Dindigul and Peddiar Chatram Anchayat Unions, uncovers that 350 wells out of an aggregate of 467 wells used for drinking water system purposes have been contaminated.

RESPONDENT :-

The advocates from the side of the tanneries argued that the quality concerning Total Dissolved Solids (TDS) fixed by the Board wasn't legitimized. This Court by the request dated April 9, 1996, coordinated the NEERI to examine this angle and offer its input. In its report, NEERI has legitimized the models stipulated by the Board. The Ministry of Environment and Forests has not completely set down models for inland surface water release for Total Dissolved Solids (TDS), sulphates, and chlorides. The selection on these guidelines rests with the individual State Pollution Control Boards in line with the prerequisites supported nearby site conditions. The rules stipulated by Tamil Nadu Pollution Control Board (TNPCB) have been advocated. The principle endorsed of the TNPCB for inland surface water release is met for tannery squander waters cost-viably through appropriate embed control guages in the tanning activity, and normally structured and viably worked wastewater treatment plants (ETPs and CETPs).

JUDGEMENT BY HON'BLE SUPREME COURT :-

Keeping in view the scenario in this judgement we order and direct as Under -

1. The Central Government shall constitute an authority under Section 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 Section 5 of the Environment Act and for taking measures with respect to the matters conferred to in clause (v), (vi), (vii), (viii) (ix) (x) and (xii) of Sub-Section (2) of Section 3. The Central Government shall constitute the authority before September 30, 1996.

2. The authority so constituted by the Central Government shall implement the "precautionary principle" and "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 or environment in the affected areas and shall also identify the individuals or families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals or 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. Vellore Citizens

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to the individuals. A statement showing the total amount to be recovered, the names of the polluters from who the amount is to be recovered, the amount to be recovered from each polluter, the persons to who 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. He shall disburse the compensation to the affected families.

4. The authority shall direct the closure of the industry owned / managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from his 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 Rs. 10000/- 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 30, 1996 in the office of 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, alongwith 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.

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme / schemes for reversing the damaged 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 CEPTs 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 fails 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 - 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.

11. The standard 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 throughout the standards by Board.

Mr. M.C. Mehta has been assisting this Court to our utmost satisfaction. We place on record our appreciation for Mr. Mehta. We direct the state of Tamil Nadu to pay Rs. 50,000/- towards legal fees and other out of pocket expenses incurred by Mr. Mehta.