

Judicial Activism in India for Environment protection: An overview of M.C. Mehta vs Union India, 1986.

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Abstract

The issue of Environment protection during the last few decades is not only a matter of national concern but a subject of global importance as well. Man's endless and thoughtless exploitation of natural resources created an ecological disequilibrium for the last few decades.

All three organs of the Indian democracy i.e. the legislature, executive and judiciary have taken the phenomenal move to control the environmental problems in accordance to their respective jurisdictions. But sometimes an administrative and institutional framework for handling environmental issues proves to be infirm and ineffective. Since the 1980's the honourable Supreme Court of India became increasingly sensitive and took environmental matters into serious consideration by allowing suffered people by filing Public Interest Litigation (PIL). There are many judicial judgements which contributed for the development of environmental jurisprudence in India but the legal case of M. C. Mehta vs Union of India, 1986 deserves special importance. This research article is an attempt to navigate the role of judicial activism in environment protection with the help of this environmental case.

Keywords: Environment Protection, Public Interest Litigation, environmental jurisprudence, M. C. Mehta vs Union of India, 1986, Judicial activism

Professor Upendra Baxi, an ardent supporter of judicial activism in India, has said that the "Supreme Court of India" has often become "Supreme Court for Indians". By the powers vested in the Judiciary and through its activist role has actively contributed in the strengthening the fundamental rights granted by the Constitution. Article 48A¹ states that, the State shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country." The Amendment also inserted Part VI-A (Fundamental duty) in the Constitution, which reads as follows: Article 51A(g)² "It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, and wildlife and to have compassion for living creature."

The Supreme Court also recognized and appreciated the Fundamental Right to Clean Environment under Art. 21³ of the Constitution in very comprehensive manner. In *Subhash Kumar v. State of Bihar*⁴, the court stated that the right to life granted under Article 21 of the Constitution includes the right of enjoyment of pollution free air and water for full enjoyment of life. The court acknowledged the right of wholesome environment as a part of right to life. There are many landmark judgements of the Supreme Court which expanded the horizons of an Environment justice. Each of them issued different guidelines and doctrines such as Polluter pays principle, Doctrine of public trust, Intergenerational equity or Sustainable development, Precautionary principle etc. But the study of M. C. Mehta vs Union of India case becomes important because of its first landmark ruling towards protection of environment.

M. C Mehta vs Union of India 1986⁵

This case is considered as one of the most significant and historic one which changed the entire dimensions of the Indian environmental jurisprudence. It was a landmark judgement in the field of environmental activism possessing the potential to change the face of environmentalism in Indian context. It has played a vital role in framing and structuring the Environment (Protection) Act, 1986; it mainly deals with the functioning of factories

and other enterprises dealing with hazardous resources or materials which can cause danger to the common vicinity of people. The Supreme Court in this case sought to regain the public faith in the machinery of justice by correcting the mistake done a year ago in Bhopal gas tragedy incident of 1984.

Facts of the case:-

Shriram Food and Fertilizer Industry which was a subsidiary of Delhi Cloth Mills Limited, a privately owned company working in the manufacturing of caustic chlorine and oleum gas. A writ petition was filed by social activist lawyer M.C Mehta for the closure of Shriram Food and Fertilizer Industry as it was placed in a very densely located area of Delhi municipality called Kirti Nagar. When the filed petition was still pending in the Supreme Court, on December 4th and 6th 1985, a major leakage of petroleum gas took place from one of the same units of Shriram Food and Fertilizers Limited in the middle of the capital city of Delhi which resulted into one death and several health issues of the concerned people.

While concerning severity of the matter, concerned authorities issued two orders to shut down the plant on the 7th and 24th of December under the provision of Factories Act (1948) respectively. Shriram company shortly responded by filing writ petitions of itself (No. 26 of 1986) to stop the two orders and urged interim opening of its caustic chlorine plant manufacturing; glycerine, soap, hard oil, etc. At the same time on behalf of the concerned gas leak victims the Delhi Legal aid and Advice Board and the Delhi Bar Association filed for compensation along with the original petition of M.C. Mehta and was also strongly pleaded to not allowing the closed establishment to restart until the matter get resolved.

The concerned matter was raised by M. C. Mehta by filing PIL against the company demanding its permanent closure with immediate effect. This case was first heard by three judges' bench who, in their respective judgement permitted the short reopening of the closed establishment based on certain terms and conditions. With considerations that the issues are of having constitutional importance the case was then referred to a larger bench of five judges to fasten the process of issue resolution. This case was having significant constitutional importance based on the issue raised which sought to examine the scope of Article 21 and its implications.

It was strongly argued on behalf of the petitioner that Shriram Industry should be ordered to close on permanent basis as it posed a risk to life as well as health of the community settled in the close vicinity of the industrial establishment, which would be a violation of the fundamental right guaranteed under Article 21. Though Right to health and clean environment is not explicitly mentioned in the Constitution but it is inherently expressed under the Right to life. The directive principles under the Constitution provides for improvement of healthcare and how State should take measures to improve the standard of health and lifestyle of the citizens. Though these directives are not enforceable in court of law, but it becomes the moral duty of State to act in accordance with these prescribed principles⁶. It was argued that the nature of activity undertaken by the concerned industry was dangerous and potentially risky to the health and well-being of community at large level.

It was pointed out that the company should have an absolute and non-delegable liability instead of strict liability to ensure that no harm is caused to the community because of the dangerous nature of activity they have undertaken and to make them strict accountable for this negligent activity. It was pointed that the manufacturing of chemicals by the concerned industry was a matter of public interest. According to state industrial policy which was originally intended to be functionalise by the government but instead Shriram was permitted to perform such activities under the control of state in accordance to their complied rules and regulations. It was held that those activities which are important for the

functioning of the society should be necessarily considered governmental functions. Here court adjudicated the importance of maintaining balance between ecology and development which would be guiding path for the idea of sustainable development.

It was clearly argued by the petitioner that compensation should be paid to all the concerned victims because all the applications for compensation hold the right to life which also guarantees right to health and clean environment in implicit manner. It was the absolute duty of the Shriram Industry to take necessary safety measures in order to reduce the harms or any risk to the health of the community at large. But later Court decided not to adjudicate on this matter.

Judgement:-

The judgement was delivered on 19th December 1986. Supreme Court did not take any stand for adjudicating on the concerned matter whether compensation should be paid by Shriram Industries under Article 21. They issued directions to Delhi Legal Aid and Advise Board to file a comprehensive action on behalf of all those who claimed to have victimized from this incident before an appropriate court within two months from the date of judgement. It also stated that the amount of compensation should be in proportion to the intensity of the harm caused to the community and should also be correlated to the capacity of the Shriram industry so as to have a required deterrence effect. The court also instructed Shriram industry to follow all the recommendations of the Nilay Choudhary and Manmohan Singh Committees and issue a strict notice that failure to do so will strictly result in the immediate closure of the plant.

Conclusion:-

- The judgement of the case was proved to be significant for the environmental cases which require legal interpretations in a comprehensive manner.
- The Supreme Court took a proactive role in the disposal of the case and strictly ensured that the Fundamental rights of the people are not violated, by giving wide interpretation to Right to life under Article 21.
- It was necessary to have such a strong judgement to ensure the public that industries will be held absolutely liable for their actions and will be punished if they fail to do so.
- Indian judiciary has taken a concrete approach for protection of individual rights and emerged as protector of an environment. But the protection of environment is a global issue and requires global participation.

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