

Case Analysis of MC Mehta vs. Union of India

Miss. Isha M. Gavaskar

Guide: Hanumant Dodake (Asst. Professor)

Deccan Education Society's

Shri. Navalmal Firodia Law College, Pune

1. Introduction –

MC Mehta, known as the Green Avenger of India, is an Indian public interest attorney and environmental activist who has single-handedly won multiple landmark judgments in several public interest litigations (PILs) filed on environmental issues. For his activities and concerns to protect the environment, he is also known as the green lawyer of India.

The 1986 case titled MC Mehta v. Union of India¹, with MC Mehta being the petitioner-in-person himself has become a landmark judgement in environmental activism in India. The case is significant in various regards. The judgement, after the deadly Bhopal Gas Disaster in 1984, changed the scope, extent, and application of not only the environmental laws in India but also that of Article 21 dealing with the right to life and personal liberty and Article 32 dealing with remedies for violations of fundamental rights of the Constitution of India.

The present article enumerates the judgments passed in this case by the Supreme Court of India and also explores the underlying legal issues and findings of the Court as well as several newly evolved legal principles from this case.

2. Rational and Significance –

The fundamental right of right to life under Article 21 involves nature and the environment in its conception without which life cannot be enjoyed. The right to life and liberty includes the guarantee of a pollution free environment. Thus, it has been held in the case of M.C. Mehta v Kamal Nath² that any disturbance of the basic environmental elements such as air, water and soil that are necessary for life, would be hazardous for life within the meaning of Article 21.

The Directive Principles of State Policy (DPSP) provide that protection and improvement of the environment is duly enjoined on the Government as observed in the case of Tata Housing Development Co Ltd. v Aalok Jagga and Ors. Article 48A under the DPSP lays down that it is the duty of the State to make an endeavour to protect and improve environment. Under Article 51(A)(g) of the Constitution, it is the fundamental duty of every citizen of India to protect and improve the natural environment. The aforementioned articles are in consonance with Article 21, therefore, need to be looked at collectively. A collective appraisal would lend favour to the DPSP of protecting the environment to acquire an enforceable character. Collectively, the articles illustrate The Precautionary Principle, now recognised as a law of the land. The Precautionary Principle makes it mandatory for the State Government to anticipate, prevent and attack the causes of environment degradation.

¹ 1987 AIR 1086

² (1997) 1 SCC 388

In the context of the current judgement, Article 21 is the overarching right that is violated. As such, the particular DPSP that is enjoined on the Government makes a case for an obligation. The harmony of Article 48A with Article 21 and Article 51(a)(g), necessitates The Precautionary Principle in view of the immense danger of environmental degradation. Furthermore, the Polluter Pays Principle evolved by the Supreme Court in *M.C. Mehta v. Kamal Nath*, applies to the given case. Here, damages may be awarded not only for the restoration of ecological balance but also to the victims of these disturbances.

3. Research Problem –

The researcher conducts the study in order to examine the court's ruling in the relevant case and determine whether or not it is fair. The court identified the following problems:

- a) Did every leather tannery at least establish a primary treatment plant?
- b) Did the state government take notice of the sacred river's deteriorating condition and launch an investigation into it?
- c) Had the state taken any action, if any at all?
- d) Should funding be provided for the establishment of wastewater treatment plants for smaller industries?
- e) If so, what standards should be used to identify smaller industries?
- f) What steps must the central government take in total?

4. Aim & Objectives of Study –

The Aims and Objectives of this Research is to:

- a) To understand the Case
- b) To understand the Precedent set
- c) To analyze the judgement given by the Court
- d) To understand the changes made to the Legislature as per the case law.

5. Hypothesis of Research –

Even though the establishment of the hazardous industries is necessary for the advancement of society and the economy, they cannot escape their obligations by demonstrating that they were not careless when handling the hazardous substance or that they took all reasonable precautions while handling it.

As a result, the court applied the absolute, no-exceptions no-fault culpability standard in this instance. Before Congress established this rule, or prior to 1987, these risky industries would seek exceptions to the strict liability rule to avoid their responsibility.

6. Chapterization –

Chapter I

Introduction to Research Study

1) Introduction

The Ganga travels south and then east from the Himalayas, eventually draining into the Bay of Bengal. The river is 2,525 kilometers long and has been the lifeline of numerous Indian civilizations. Kanpur, with a population of 2.9 million people, becomes one of the largest cities on the Ganga's banks and dumps a massive amount of rubbish into the river. The primary source of pollution in this city is industrial/trade effluents from the leather sector.

This industry's effluent comprises putrescible organic and poisonous inorganic material, which when released into water would reduce the quantity of dissolved oxygen in the waterbody, resulting in the death of aquatic life and injury to anybody who eats this water. The case was taken up by the Supreme Court via a writ petition filed by the renowned lawyer, Shri MC Mehta, who is regarded as a pioneer in the field of environmental law, and it was discovered that many industries on the river's banks were discharging their effluents into the river without first treating them. The case is also known as the Ganga Pollution Case, the Kanpur Leather Tanneries Case, and the Mehta I Case.

2) Rational and Significance

While the state must foster sustainable growth, it is also necessary to provide a pollution-free environment for the people. The identical point has been made in this instance. The court took the same action to reduce traffic pollution. However, the moment has come to make art. 51A(g) enforceable in nature so that everyone is concerned about the environment. Throughout this process, the court has linked art. 51A(g) with the precautionary principle and held that it is an essential duty of citizens that should come in addition to their right to a pollution-free environment under art. 21. However, this would result in the loss of several people's jobs.

As a result, the notion of sustainable development should be included in legislation, along with a comprehensive mechanism for assessing the required balance between preventive measures and sustainable development. It is also the public's responsibility to utilize public transportation more frequently, to not pollute rivers or ponds, and to drive natural gas or diesel cars; only then can such a decision be successful. This can also be secured by the state by boosting vehicle screening, prohibiting obsolete vehicles, making the environmental auditing process more stringent, and selecting industrial areas after thorough environmental assessments. The law or court is not averse to development as seen in the case of *Vijay Singh Punia vs. Raj. State Board*³ for the Prevention and Control of Water Pollution and Ors, but while the development meets the standards of the present, they should also be able to sustain the future.

3) Research Problem

The research is carried out by the researcher, to analyze the judgement given by the court in the said case and decide whether the judgement given is fair or not. Issues found by the court were as follows:

- a) Whether all the leather tanneries had at least set up a primary treatment plant?

³ AIR 2003 Raj 286

- b) Whether the State Government had paid attention to the worsening condition of the sacred river and had initiated probation into the matter?
- c) Whether any steps, if at all, had been taken by the state?
- d) Whether the smaller industries should be funded for setting up effluent treatment plants? If yes, then what should be the criteria to determine smaller industries?
- e) What all steps should the Central Government must take to regulate pollutant discharge into the river throughout its course?

4) **Aims & Objectives of Study**

The Aims and Objectives of this Research is to:

- e) To understand the Case
- f) To understand the Precedent set
- g) To analyze the judgement given by the Court
- h) To understand the changes made to the Legislature as per the case law.

5) **Hypothesis of Research**

Even though the establishment of the hazardous industries is necessary for the advancement of society and the economy, they cannot escape their obligations by demonstrating that they were not careless when handling the hazardous substance or that they took all reasonable precautions while handling it.

As a result, in this case, the court adopted the absolute, no-exceptions, no-fault culpability standard. before to Congress enacting this rule, or before to 1987, these hazardous businesses would seek exceptions to the strict liability rule in order to escape liabilities.

In the ruling, the court cited the Rylands v. Fletchers ⁴ case to highlight that there are some exceptions to the strict liability rule.

6) **Research Methodology**

A. Sources of Data Collection:

The sources useful for primary data are constitution of India and judgements of supreme courts. The Secondary date is collected from statistical bulletin published by various organizations, i.e. journals, periodicals, newspapers, annual reports of the respective departments, Government of India, State Government, Other authorities (bulletin, annual report) and publications and published reports.

B. Tools of Data Collection:

The data is collected mainly through Secondary sources such as articles, journals, books & data available on various websites relating to crimes against women and women's rights.

C. Research Models:

While doing research the researcher will use the following models:

- a) **Explorative Model:** This research model is used mainly for the purpose of Formulating a problem more precise and structured investigation or of developing hypotheses. Also used for understanding the basis for clarifying concepts, establishing priorities for future research

⁴ [1868] UKHL 1, (1868) LR 3 HL 330

- b) **Historical Model:** Historical method is about selection, classification and interpretation of past events, testimonies, personalities and figures. The method comprises the techniques and guidelines by which historians use primary sources and other evidence to research a particular subject area.
- c) **Explicative Model:** This model is used to ascertain the nature, scope, source of law in order to explain what law is and also to spell out the several provisions, parts, facts of law and legal system.
- d) **Evaluative Model:** This model is used to find out how a legal fact came to be what it is. In it, the evolution of a legal fact is traced out by locating various supportive and causal phenomenon and events responsible for shaping the growth of legal fact under study.

Chapter II

History and Facts of the case

1) Introduction

MC Mehta is a lawyer by profession and an enthusiastic environmentalist by choice. He seeks to make India's environment a non-polluted and healthy one. Mehta is the only Supreme Court Lawyer who has stood up against polluting Indian Industries and achieved victory against them. He has fought numerous cases which gave a different perspective to the Judiciary.

2) Historical Background

Shriram, a subsidiary of Delhi Cloth Mills Ltd., had several units in a single complex covering approximately 76 acres of land in a densely populated area. The company produced caustic soda, chlorine, hydrochloric acid, sulphuric acid, alum, anhydrous sodium sulphate, high test hypochlorite, and active earth, as well as bleaching powder, superphosphate, vanaspati, and soap. The caustic chlorine plant in question was established in 1949 and employed 263 people. Following the Bhopal Gas Disaster in 1984, the Central Government appointed a firm called 'Technica' to inspect Shriram's caustic chlorine plant, and the firm submitted a preliminary report identifying potential areas of concern and suggestions for improvement.

In March 1985, the possibility and dangers of any major leakage from the caustic chlorine plant of Shriram were discussed in Parliament. In response to that, an expert committee called the Manmohan Singh Committee was constituted to further inspect the caustic chlorine plant. They submitted a report after a detailed inspection with recommendations for various safety and pollution control measures. The petitioner-in-person MC Mehta filed the first Civil Writ Petition 12739 of 1985 under Article 32 of the Constitution of India to seek a direction for the closure of various industrial units owned by Shriram Foods & Fertilisers Industries (here-in-after referred to as 'Shriram' for convenience) since they were located in a heavily populated area in Delhi and were hazardous to the people living in the vicinity. During the pendency of the abovementioned petition, there was an incident of leakage of Oleum gas from one of the industrial units of Shriram for which awards of compensation were filed by both the Delhi Legal Aid and Advice Board and the Delhi Bar Association.

3) Facts of the Case

On 4th December 1985, an incident of a major leakage of oleum gas happened from one of the units of Shriram. The leakage physically affected many common public – both the workmen as well as common people outside. Moreover, an advocate practising in the Tis Hazari Court died after inhaling oleum gas. The incident was confirmed by both the petitioner and the Delhi Bar Association. After two days, another minor leakage of oleum gas took place from the joints of a pipe on 6th December.

Due to the subsequent two incidents of oleum gas leakage, the Delhi administration immediately responded by issuing an order under Section 133(1) of the Code of Criminal Procedure, 1973 which directed Shriram to take the following steps:

- a) To stop using harmful chemicals and gases in the unit within two days;
- b) Remove the said chemicals to a safer place within seven days and not keep or store the chemicals in the same place where the disaster happened again;
- c) Or, to appear in the Court of District Magistrate, Delhi to show cause for the non-enforceability of the mentioned order on 17th December 1985.

On the next day, both the above-mentioned writ petitions came up for hearing in the Supreme Court. The Supreme Court also took cognisance of the above order by the District Magistrate and noted that due to the “inadequacies”, it is not possible to take the steps urgently.

4) Issues reported

The Supreme Court dealt with multiple legal issues in the two judgements passed respectively on 17th February and 20th December, 1986. The first judgement examined the scope of public interest litigation in the area of environmental laws and mostly dealt with:

- a) Whether the Supreme Court had the authority under Article 32 to decide Shriram to restart its caustic chlorine plant?
- b) What are the necessary conditions to be satisfied in order to run an industrial unit in a heavily populated area?
- c) The decision of constitution of Environmental Courts in India regionally.

The constitutionally important questions were discussed in detail in the final judgement. The legal issues addressed therein are as follows:

- a) Whether the jurisdiction and authority of the Supreme Court under Article 32 can be extended;
- b) Whether applications for compensations to victims are maintainable under the said Article;
- c) Whether Shriram falls under “other authorities” as mentioned in Article 12;
- d) Whether the right to life under Article 21 is available against a private corporation like Shriram,
- e) If a letter addressed to any individual judge is maintainable as public interest litigation;
- f) What is the liability of any hazardous industry in case of an accident? Whether the concept of strict liability established in the case of Rylands v. Fletcher (1868) applicable in such a situation? What should be the amount of compensation in the case of an accident occurring due to a hazardous industry?
- g) Whether a new legal principle can be constructed if necessary where the existing legal principles are not applicable; and
- h) Lastly, whether the Supreme Court of India is bound to follow the decisions laid down in foreign case laws.

5) Conclusion

The petitioner MC Mehta demanded the permanent closure of the caustic chlorine plant of Shriram since the location of the factory was in a highly populated area in Delhi. Though the Court did not order the same, it appreciated his efforts for bringing out certain willful negligence of the factory in dealing with hazardous substances in safety measures to light.

Chapter III

Arguments of both Parties

1) Introduction

The defendant's counsel filed only one preliminary objection, arguing that the Court should not proceed to decide these constitutional issues because there was no claim for compensation originally made in the writ petition and these issues could not be said to arise in the writ petition.

2) Arguments by the petitioner

On the basis of the liberty given to him by the Supreme Court, the petitioner-in-person formed a committee of experts named the “Agarwal Committee” and inspected the caustic chlorine plant of Shriram. The Committee found multiple inadequacies in the safety measures and was of the opinion that the complete elimination of hazards was impossible due to the location of the plant in a densely populated area. Based on the findings, the petitioner-in-person submitted before the Court that the caustic chlorine plant should not be allowed to restart since there would always be a significant possibility of hazards to the people living nearby even if all the recommendations made by all the expert committees were properly implemented by the management of Shriram.

3) Submission by counsel for the trade unions

The counsel for Lokahit Congress Union and Karamchari Ekta Union, the two trade unions of Shriram submitted that the permanent closure of the plant would result in the unemployment of about 4,000 workmen.

4) Statement of Additional Solicitor General

The Additional Solicitor General appeared on behalf of both the administration of Delhi and the Union of India. Both the Delhi administration and the Union of India did not withdraw their objections on the issue of reopening the plant. However, it was submitted that if the Court decided to permit the reopening after examining the absence of any real hazards to the local community, the reopening could only be ordered after imposing strict safety measures to ensure the safety of the employees as well as the people nearby.

5) Pleadings of counsel of Shriram

The counsel for Shriram pleaded before the Court to allow Shriram to restart operations in the caustic chlorine plant since the management of Shriram had taken all the possible steps and safety measures and implemented

all the recommendations made by both the Manmohan Singh Committee and the Nilay Choudhary Committee. With all the precautions, there was no or very little possibility of leakage of chlorine gas. Furthermore, due to the closing down of the factory, about 4,000 employees would be unemployed and the Delhi Water Supply Undertaking would face non-availability of chlorine and a short supply of downstream products used to purify water. It was also submitted that other plants of Shriram would be opened after adopting proper maintenance and safety measures.

The counsel also raised a “preliminary objection” before the Court regarding the dealing of constitutionally significant issues since the leakage occurred after the filing of the petition. According to him, the petitioner could file an amendment to the writ petition for compensation. The Court accepted the fact but did not sustain his objection because the Delhi Legal Aid and Advice Board and the Delhi Bar Association had already filed applications for compensation.

Chapter IV

Judgement given by the court of Law

1) Introduction

The judgement consisted of several important discussions on the points of law and multiple legal principles, as well as consideration of the arguments. The Court, rather than merely dealing with legal provisions, applied a humane touch by considering the fates of the employees. The various aspects of the judgements are discussed subsequently.

2) Decision on the relocation of the caustic chlorine plant

On the question of whether the caustic chlorine plant of Shriram should be permitted to be restarted or not, the Court referred to the opinions of the various expert committees constituted earlier. Though the opinions of the expert committees were conflicting, all of them unanimously expressed the view that the risk to the employees and people outside could be minimised with the adoption of proper safety measures, but it was not possible to fully eliminate them. For that reason, the “general consensus” of all the committees was to relocate the plant.

For future reference, the Court directed the government to form a national policy for the location of such hazardous industries to eliminate risk factors. The Court also noted that all the expert committees had the unanimous opinion that considerable negligence in maintenance and operation and defects in the structure of the plant were present. However, despite showing initial indifference, since the management of Shriram later implemented all the recommendations of the three expert committees, the caustic chlorine plant may be restarted due to the absence of imminent danger to the employees and the community. The Court also considered the fact that the factor of unemployment would arise due to the closure of the plant.

3) Consent order under Water Act and Air Act

The Central Pollution Control Board had raised a question regarding the discharge of effluents and waste water since they did not properly follow the standards set by the board to discharge wastes by using appropriate technologies.

Shriram had to obtain a consent order under the Water (Prevention And Control Of Pollution) Act, 1974 for discharging effluents from the plant. So, the Court directed the Central Water Board to grant a temporary consent order for one month. The Court also asked the Board to collect samples from discharged effluent to ascertain that the collected samples comply with the standards mentioned in the consent order. If the standards were found to be violated, the Board should inform the Court about the violation and might take any action against Shriram accordingly.

Similarly, the plants of Shriram were situated in the air pollution control area as notified by the Central Government under Section 19(1) of the Air (Prevention and Control of Pollution) Act, 1981. Hence, to run the plant, Shriram had to apply for a consent order under Section 21 of the Act. Shriram complied with all the conditions mentioned in the consent order under the Air Act, 1981 at that time. However, the Court gave the Board the liberty to take appropriate disciplinary action against Shriram if the Board found any violations of the consent order.

4) Grievance with Delhi Municipal Corporation

The Court expressed certain grievances with the Delhi Municipal Corporation due to their failure to keep the sewer clean so that it could be used for the discharge of effluent. The Court noted that no positive steps were taken by the municipality to clean the choked sewer situated in the Najafgarh area. Though the Court did not issue any direct order to clean up the sewer, it regretted the indifference of the Delhi Municipality to clean up the sewer due to which the process of discharging the effluents was affected.

5) Final decision

The final decision by the Supreme Court was to give Shriram permission to reopen the mentioned plant. Though the earlier two orders passed by the Inspector and Assistant Commissioner of factories dated 7th and 24th December, 1985 were not vacated, both the orders were suspended. The Court gave temporary permission to run the plant and set ten conditions to strictly follow, along with fines. The Court also mentioned that failure to maintain the conditions would result in the cancellation of the permission granted by the Court.

Conditions to be followed - The strict conditions set by the Supreme Court for Shriram to restart the caustic chlorine plant were as follows: The Court noted that only after filing the PIL, Shriram was forced to implement all the recommendations given by the expert committees. Hence, the Court directed an expert committee to monitor the safety measures and maintenance once a fortnight twice and then submit a report before the Court. The Court directed Shriram to pay Rs thirty thousand as the cost of various expenses of the expert committee. The Court directed Shriram to engage one plant operator to supervise the safety and security measures of the plant. In case of any further future mishap, the operator would be held responsible personally. The Chief Inspector of Factories or any other inspector under his direction was supposed to pay a surprise visit without prior information once every week. The duty of the inspector was to inspect whether the management of the plant was following all the safety measures as directed by the expert committees. In addition to the above, the Court further asked the Central Board to engage another senior officer to examine whether Shriram was properly following the waste management rules. The Court directed the Chairman and Managing Director of Delhi Cloth Mills Ltd, the company which was the owner of all the units of Shriram, to submit an undertaking to the Court declaring that in future, they would be liable for further accidents and should personally pay compensation to every victim. The two trade unions of Shriram, i.e., Lokahit Congress Union and Karamchari Ekta Union, were asked to form a committee containing three representatives after nomination from each of the unions

to supervise the safety arrangements of the plant and to inform the management in case of any negligence. The Court further directed them to inform the Labour Commissioner if the management ignored such defaults or wilful negligence. The Court also directed the management to train the representatives regarding the functioning of the plant within two weeks. A detailed chart in both English and Hindi containing side effects of chlorine gas in the human body and what to do in case of emergency leakage should be in every department as well as at the gate of the premises. The employees in the caustic chlorine plant should be educated and properly trained regarding the functioning of the plant and the steps to take during leakage. The Court suggested using audio-visual programmes to educate, and after that, a “refresher course” along with mock trials should be conducted at least once every six weeks. The Court also directed the installation of loudspeakers on the factory premises to warn local people in case of accidental leakages. A proper vigilance by management to ensure that the employees were also abiding by the safety procedures and conducting regular medical checkups.

Payment of compensation - The Court directed Shriram to pay a sum of Rs twenty lacs for the payment of compensation to victims of oleum gas leakage. Besides that, a bank guarantee of Rs fifteen lacs should be submitted to the Registrar as a security deposit to be used as funds for compensation claims in case of any injury or death of any local people or employee due to chlorine gas leakage within three years. In such a situation, the District Judge of Delhi would decide the amount of compensation to be paid.

6) Conclusion

The Court, while rejecting this objection, said that though it is undoubtedly true that the petitioner could have applied for amendment of the writ petition to include a compensation claim but merely because he did not do so, the applications for compensation cannot be thrown out.

Chapter V

Effects of the Decision

1) Introduction

These applications for compensation are for enforcement of the fundamental right to life enshrined in Article 21 of the Constitution and while dealing with such applications we cannot adopt a hyper-technical approach that would defeat the ends of justice.

2) Setting up of Environmental Courts

After this landmark case, the Supreme Court directed the government to set up environmental courts regionally to deal with cases regarding various environmental issues such as pollution, ecological destruction, and other conflicts with proper attention. The Environmental Court should have one professional judge and two experts in science and technology from the “Ecological Sciences Research Group” to assist the judge in adjudicating the case. However, either of the parties may appeal the decision of the Environmental Court to the Supreme Court.

3) Suggestions and directions of the Supreme Court to the Government of India

The Court suggested the Government of India set up a “High Powered Authority” after consulting with the Central Board to supervise the functioning of such industries. The Court further requested to formulate a national policy regarding the location of such industries in places where there are little or no health hazards to the common public.

Scientific and technical knowledge is required to determine the legal cases regarding the environment. In the absence of any independent machinery, it becomes difficult. Hence, the Court requested the Indian Government to set up a piece of independent machinery called the “Ecological Sciences Research Group” consisting of various science and technology experts to assist the Court in cases relating to environmental issues.

4) Judicial recognition of the efforts of the petitioner

Though the Court permitted the restarting of the caustic chlorine plant, the Court deeply appreciated the petitioner MC Mehta for his efforts in bringing such a serious issue before the Court. For fighting a “valiant battle” to save the environment and as a token of appreciation, the Court asked Shriram to pay him a sum of Rs ten thousand as costs.

5) Future implications

The recent case of at re: Gas Leak at LG Polymers Chemical Plant at RR Venkatapuram Village, Visakhapatnam, Andhra Pradesh (2020), also known as the Visakhapatnam gas leak case (2020) or Vizag gas leak case (2020), represented the new legal ideas and changes. In this instance, a dangerous chemical known as styrene spilled from LG Polymers' plants, killing 12 people and injuring many more while also harming the environment. Under the Act, the corporation was found completely accountable and was forced to deposit Rs fifty crores with the National Green Tribunal.

6) Conclusion

The High Court was ordered to appoint one or more Judges as may be required for the purpose of considering such matters and disposing of them quickly. Simply because the gas resulted in deaths and hospitalizations.

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