

CASE BRIEF: M.C. MEHTA VS. UNION OF INDIA (1986)

-Jaarvi Shah*

Case Name: M.C. Mehta vs. Union of India, 1986

Citation: 1987 AIR 1086, 1987 SCR (1) 819

Coram: Hon'ble Mr. Justice Bhagwati, P.N. (CJ)

Relevant Laws: The constitution of India, The Environment Protection Act 1986

Holding (Applied rule of law): Polluters Pay Principle, Precautionary Principle & Sustainable Development

I. FACTS

A petition was filed for the purpose of relocation of 292 industries that emitted coal or coke effluents that was damaging the beauty of the Taj Mahal and also the health of the people staying within that area. It was also to further direct them to switch to natural gas if possible. This petition was invoked under the Environment Protection Act 1986, Water (Prevention and Control and Pollution) Act 1974 and Air (Prevention and Control and Pollution) Act 1981.

M.C. Mehta (the petitioner) mentioned that the main deterioration of the Taj Mahal was due to the refineries at Mathura. When the Sulphur dioxide emitted from these refineries mixed with the oxygen and moisture in air, led to formation of acid rain. This acid rain which had sulphuric acid, led to corroding of the marble.

II. ANALYSIS

The main objective behind this litigation by MC Mehta was to protect the environment and the heritage site.

*Jaarvi Shah is a student at Jitendra Chauhan College of Law.

“Polluters Pay Principle” was one of the main basis on which the Court gave its judgment. The Polluter Pays Principle imposes liability on a person who pollutes the environment to compensate for the damage caused and return the environment to its original state regardless of the intent. In this case it was clear that the emissions generated due to coke and coal of these industries around TTZ were the main polluters of the air. And therefore the court gave those 292 industries an order to either switch to natural gas or relocate. [1](#)

The Indian Judiciary has considered this principle as a part of the Environmental law and this can be seen in the judgments passed in these cases: 1. M.C. Mehta vs. Kamal Nath & Ors 1997)1SCC388 2. Vellore Citizens' Welfare Forum vs. Union of India 1996(5) SCC 647.

Coming to the concept of Sustainable development which formed another important part of this judgment:

Sustainable development means the development of economy without the depletion of natural resources. It is defined as development that meets the need of the present without compromising the ability of the future generation to meet their own needs.

Along with the protection of the Heritage sites and environment, development of economy is also important. The solution to this problem is sustainable development. The pollution created as a consequence of development must commensurate with the carrying capacity of our eco-systems. Here the protection of heritage sites and environment is important for both the present generation and also the generations to come.

The Court in Vellore Citizens Welfare Forum vs. Union of India & Ors.JT 1996(7) SC 375 has defined Precautionary Principle as:

The "Precautionary Principle" -- in the context of the municipal law - means:

- (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.[2](#)

Thus, the court anticipated the environmental damage due to these 292 industries and they were relocated to prevent the attack due to emissions that would have caused more damage to the Taj Mahal and people around it.

III. JUDGMENT

The judgment was given based on the reports by various technical authorities about the effect of these harmful emissions on the Taj Mahal and the people living in that area.

1. A designated area of 10,400 sq.km. covering three world heritages – The Taj Mahal, The Agra Fort and Fatehpur Sikri called the Taj Trapezium Zone.
2. The list of 292 industries (listed in the judgment) shall switch to natural gas as an industrial-fuel. The industries that are not in a position to obtain gas connections - for any reason - shall stop functioning with the aid of coke/coal in the TTZ and may relocate themselves as per the directions given in the judgment.
3. The industries that had to be relocated were given incentives.
4. The workmen employed in these 292 industries were entitled to a few rights and benefits. A few of the benefits included:
 - Continuity of employment in the new town or place where the industry is shifted.
 - “Shifting Bonus” was provided to the workmen who were ready to shift to the new town where the industry was being relocated.
 - The period between the closure of the industry in Agra and its restart at the place of relocation shall be treated as active employment and the workmen were to be paid full wages.
5. Green belt as recommended by NEERI was set up around the Taj Mahal.
6. All shops functioning within the Taj premises were ordered to be closed.

IV. CURRENT SCENARIO

Supreme Court has recently removed the ban on industrial construction in the Taj Trapezium Zone.

The Supreme Court bench allowed the industrial units, which do not spread pollution but are in compliance in rules, to function. They should also have a No Objection Certificate from the Ministry of Environment, the Supreme Court said.³

V. CONCLUSION

It was necessary to pass this judgment to protect both the beauty of Taj Mahal and the health of people living in the Taj Trapezium Zone. Along with this incentives were given both to the industries to be relocated and the workmen working in these industries. This judgment not only helped reduce the pollution but also encouraged the development of industries.

REFERENCES:

1. <https://mondaq.com/india/Environment/645232/Polluter-Pays-Principle>
2. <https://indiankanoon.org/doc/1964392/> (Para 11)
3. <https://www.indiatoday.in/india/story/supreme-court-removes-ban-on-industrial-construction-in-taj-trapezium-zone-agra-welcomes-move-1627344-2019-12-11>