
CASE COMMENT: M C MEHTA V. UNION OF INDIA & ORS

1987 SCR (1) 819, AIR 1987 965

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I Introduction

Any person if take the list of cases of environmental jurisprudence M C Mehta case will be at the prominent position among all the cases. Its contribution in context of environmental law and constitutional law is unmatched and has been the landmark judgement in India. It has brought relief to many Indians who had suffered due to negative effects of environmental degradation and pollution. There were three writ petitions filed in this landmark case. One petition for its constitutional importance on the reference of the bench, other petitions were filed by Delhi Legal Aid and Advice Board and Delhi Bar Association for compensation of loss occurred due to this tragic incident. On 17th December 1985, bench of three judges allowed Shriram Food and Fertilizer Industry to restart its unit. As these applications had more constitutional importance the bench had asked the petitioner and their supporters for and Shriram Food and Fertilizer Industry were also allowed to give their written submissions for the same. As while doing so there were issues coming into picture regarding the interpretation of Article 21 and 32 and these applications were transferred from small judge bench(3) to higher judge bench(5). This case also known as a famous tort case law which highlighted principle of strict liability.

II Explanation of The Case

Public Limited Company named Delhi Cloth Mills Ltd is registered in Delhi and has a subsidiary company called Shriram Food and Fertilizer Industry, engaged in caustic soda, chlorine, hydrochloric acid, stable bleaching powder, superphosphate, vanaspati, soap, sulphuric acid, alum anhydrous sodium sulphate, high test hypochlorite and active earth. All these units were situated in a single complex in a total area of 76 acres which had many residential colonies near its units and within the area of 3 kms of the unit around 2, 00000 people were living. On 4th and 6th December 1985 major gas leakage was resulted in this unit due to mechanical as well as human errors. Due to leakage of oleum gas by burning of the tank and it had created collapse

on the structure on which it was created and had scare on the people residing nearby. People came out from this disaster, within two days only another minor leakage broke out in the unit. After the Bhopal Gas Tragedy neither Shriram Food and Fertilizer Industry nor the government is bothered hazardous chemical named caustic in Shriram Industry. Bhopal incident created awareness and examination to such units of hazardous chemicals was seen and proper equipment was installed or not in such units was given more attention during examination. One team of consultants, engineers and scientists was called by Labour Ministry of India to examine the plant and submit report on the same. This report stated only areas of concerns and potential problems it was not in depth engineering study. Report was not completely reliable.

On 6th December, 1985 District Magistrate, Delhi passed an order that Shriram Food and Fertilizer Industry shut its all the units of hazardous chemicals manufacturing and gave them seven days to remove all sorts of hazardous chemicals outside Delhi. M C Mehta at that time moved to Supreme Court to file PIL and claim for compensation for the loss and also demanded that unit should not restart again.

III Discursive Argument

In this landmark case the basic question which came in the court of law was that whether this court has power to have such a case in its court under the ambit of Article 32 as the applications filed by Delhi Legal Aid and Advice Board and Delhi Bar Association under that article. In *Bandhua Mukti Morcha v UOI*¹ case it was held that such court does not have any power to issue any order or writ in such matters but as per the obligation laid down by our constitution it has power to protect the fundamental rights of every individual and can take such matters in the court. The court has powers to amend new methods and proper strategies for securing of fundamental rights, mostly in cases where any person is denied for justice or violation of basic human rights. To be more expressive on this the bench also held that any PIL coming to any court of law should be entertained without showing any sort of rigidity just because it has not reached to the proper address. The court should not reject any PIL even if it doesn't come under its jurisdiction as the person or group who files it may not be aware of proper address where to file it. The court has also power to give remedial relief in such cases in

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¹ *Bandhua Mukti Morcha v UOI* 1984 AIR 802

the form of compensation if there is violation of fundamental rights of any person or group on the basis of socially backward, economically backward or any other reason infringement of fundamental rights is awarded to compensation.

The other issue which was argued by both the counsels was regarding that whether Article 21 is available against the Shriram Food and Fertilizer Industry; a subsidiary company of Delhi Cloth Mills Limited, a public limited company engaged in industrial business vital to public interest and has the capacity to affect the health and life of the people. The counsel for applicant argued that as per American doctrine of state action and function and control performed by Supreme Court in its earlier decisions Article 21 was available against Shriram Food and Fertilizer Industry. It was due to the all the norms and policies followed by Shriram in running an industry indirectly the government had control on such entity but Shriram was given the responsibility to run it on behalf of government. As the government had an intention to run this industry the control of the industry was linked to its functioning which is going to vitally affect public interest.

The subsequent matter to argue was that whether Shriram Food and Fertilizer Industry come under State as per Article 12. The counsel of Shriram contended that private corporation controlled or regulated by statutory laws such as Industries (Development and Regulation) Act 1951 is only in context of power of police of regulation by the State. The activities carried out by private corporations State by its police power can only regulate it. Here the control of State by its agency must be where State manages the number of members in board of management or some prior approval from the government is required to adopt any new change in its functioning. In *R. D. Shetty v/s International Airport Authority*² it was held that there is no direct formula which give us correct divisions of corporations as instrument or agency of the government. If government has some financial assistance in such corporation then it would be relevant to consider it as an instrument or agency. The court examined five factors in this case which are financial assistance, share capital, deep and persuasive control, monopoly or public functioning or functioning related to the government. The court in its reasoning regarding this said that government had control on those activities which jeopardized public interest and not only had extensive functional control but provided funds to Shriram Food and Fertilizer Industry when required. It also said that Shriram Food and Fertilizer Industry were engaged in harmful activities affecting life of many people. The court declined that Shriram Food and Fertilizer Industry would come under Article 12 as a State by giving excuse they had no time for

² R D Shetty v/s International Airport Authority 1979 AIR 1628

it and would tell on later date.

The most important aspect of this case that whether Shriram Food and Fertilizer Industry will be made liable for compensation to the victims if so then what would be the measurement of liability of such enterprise who is indulged in hazardous activities. To apply the rule of liability used in *Rylands v/s Fletcher*³ was in some confusion to apply it or not. The rule used in this case was any person who owns some portion of land and does any harm on that land by some activity that person should be held liable to compensate for loss. The court didn't consider this principle is not valid in today's modern era as such industries are considered to be the major contributor in the development of the country.

The Apex court held that Shriram Food and Fertilizer Industry is required to obtain a license under Factories Act and is subject to its provisions. A license from Delhi Municipal Corporation for manufacturing activities. It is subject to follow the environment laws. It is a fact that no control by government is exercised in the internal management policies of the company. Justice Bhagwati said that today we will evolve a new principle by not following what English Courts has done in *Rylands v/s Fletcher*³ case. We will develop our own law and is necessary to make a new principle of liability in such cases. We are of the view that any enterprise indulged in such hazardous activities with a threat of health of many people, such entities must have absolute duty towards these people and take due care for not harming anyone due to kind of mechanical or human errors. The entity will be held if it is not taking any high standards of safety in its unit and if any harm is caused due to such activity, the enterprise has to compensate for loss for its negligence. The entity in case of any accident should not argue that they had taken safety measures and due care to prevent it but didn't succeed. Any person harmed by the hazardous activity of such entity should be held liable and has to give social cost for indulging in such harmful activities.

IV Conclusion

Any enterprise indulged in hazardous chemicals manufacturing causes adverse effect on the health of the people and degrades the environment unless proper care is taken during leakage of any raw material or chemical or product of such unit. If any enterprise is indulged into the business of hazardous chemicals manufacturing for profit, then law must presume that such

³ *Rylands v/s Fletcher* UKHL 1, (1868) LR 3 HL 330

permission is conditional on the enterprise and should bear all the costs in case of any minor or major incidents. Such hazardous activity for profit must be compelled to indemnify those who suffer on account of carrying out such dangerous activities. Court in such cases should mention about the compensation amount and it should be in such a way that it balances the capacity of the enterprise and the accident occurred. If the enterprise is in a good financial position then it should be charged accordingly. The petitioner must be appreciated in bringing PIL in the court of law. There would not be improvement if the petitioner didn't file PIL in safety measures, design, quality of machinery and equipment etc. in such units where dangerous activities are being carried out. The petitioner alone fought this case with great dedication and sincerity. Degradation in our natural resources shows that how some entities and people are responsible for the same. Proper steps must be taken to preserve our resources. This enterprise was in hazardous activities which had potential to threaten the life of the people nearby, any harm caused in the factory, it must be obliged to compensate for the same. Safety precautions and instruments must be made a compulsion in such kind of units. Such units are playing a key role in country's growth but are causing risk of human and environment. The court had granted compensation to the victims but that amount was not sufficient enough as today also people living near the area where this leakage took place are suffering from many health issues.

V Summary

The judgement of this case had a huge impact on judiciary of India as this case is being known to be the landmark case in Indian Judiciary. This case has been helpful in saving lives of humans and animals by shutting down units of hazardous chemicals which lacked proper equipment for safety. The government can set up Environment Court with the appointment of appropriate people for its effective functioning in order to deal with cases of environmental degradation, pollution, ecological imbalance and conflicts of natural resources. The constitutional right to live in healthy environment must be protected of every individual. Public resources which are sensitive as well as with high ecological value must be taken care. For the development of country industries are also important but their functioning should not be such which hinders the life of human being. Hazardous units should be situated in the outskirts of the city so that minimal loss can be occurred in case of any accident.

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