



ABHIDHVAJ LAW JOURNAL

[www.abhidhvajlawjournal.com]

The goal of Abhidhvaj Law Journal is to offer an open-access platform where anyone involved in the legal profession can contribute their research on any legal topic and aid in building a quality platform that anyone can use to advance their legal knowledge and experience.

Editor In chief – Assistant Professor Mr. Janmejy Singh

Publisher & Founder – Vaibhav Sangam Mishra

Frequency – Quarterly (4 Issue Per year)

ISSN : 2583-6323 (Online)

Copyright © 2023 - 24

**VELLORE CITIZENS WELFARE FORUM V. UNION OF INDIA AND ORS [1996]
SUPP 5 SCR 241**

AUTHOR'S NAME - Etishri Dash, Advocate.

AFFILIATION – Bhubaneswar District Court at Khurdha, Odisha, India.

Petitioner: Vellore Citizens Welfare

Respondent: Union of India Ors.

Date of Judgement: 28/08/1996

Bench: Justice Kuldeep Singh, Justice Faizan Uddin, Justice K. Venkataswami

INTRODUCTION:

The ‘Vellore Citizens Welfare Forum v. Union of India case is a landmark case in India that holds significant importance in the context of environmental protection.¹ This case not only addresses environmental issues but also encompasses various legal aspects. It introduced two major principles to India, namely the ‘Polluter pays principle’ and the ‘Precautionary principle.’ The case also emphasizes the concept of “sustainable development” to strike a balance between economic progress and environmental preservation.²

The principles established in this case were further discussed in subsequent cases such as ‘Indian Council for Enviro-legal Action v. Union of India’³ However, it was the ‘Vellore Citizens Welfare Forum case that officially incorporated these principles into Indian law. This case holds significant importance in shaping environmental protection laws in India and promoting a positive approach towards safeguarding the environment.

Overall, the ‘Vellore Citizens Welfare Forum case is celebrated for its contribution to environmental protection in India and for introducing key principles that prioritize the environment over mere economic gains.

In the 1980s and early 1990s, India faced significant environmental challenges due to rapid industrialization, urbanization, and inadequate pollution control measures. The country

¹ racolblegal, <http://racolblegal.com/vellore-citizens-welfare-forum-vs-union-of-india/>, (last visited Aug. 21, 2023).

² Vellore Citizens Welfare Forum vs Union Of India & Ors on 28 August, 1996, Bench: Kuldeep Singh, Faizan Uddin, K. Venkataswami.

³ Indian Council For Enviro-Legal ... vs Union Of India And Ors.Etc on 13 February, 1996, Equivalent citations: 1996 AIR 1446, 1996 SCC (3) 212, Author: B Jeevan Reddy, Bench: Jeevan Reddy, B.P. (J)

witnessed severe pollution of rivers, air, and land, leading to adverse impacts on public health and the environment.

The tanning industry is an integral part of the Indian leather industry and is a significant contributor to the country's economy. However, the tanning industry also poses severe environmental problems, such as water pollution, air pollution, and noise pollution. The Vellore Citizens Welfare Forum approached the Supreme Court to seek an urgent hearing on the matter as pollution from tanneries in Vellore was causing health hazards for the local people.

FACTS OF THE CASE:

The Vellore Citizens Welfare Forum, a non-governmental organization, filed a public interest litigation before the Supreme Court, highlighting the severe pollution caused by tanneries in Vellore. This pollution not only contaminated the river but also affected the groundwater, agricultural lands, and the overall environment. The pollution resulted from the discharge of untreated effluents containing toxic chemicals into nearby water bodies, leading to significant environmental degradation and health hazards for the local population. Under Article 32 of the Constitution concerning severe pollution of soil and water which was caused due to from 900 tyrannies built in 5 districts of Tamil Nadu.⁴

Then a survey of sewage water was done and also area near Tyrannies was checked and it was found that 176 different types of chemicals were present in the tyranny's water. 35,000 hectares of land near the tannery was declared unfit for cultivation. Also, water from 350 wells present that area was declared unsafe for consumption.⁵

Also, the order of the Tamil Nadu Pollution Control Board to build an effluent plant for proper disposal of effluents was left unheard.

ISSUES:

The primary legal issue in this case was whether the tannery's activities violated the constitutional rights of the citizens, particularly the right to a clean and healthy environment.

⁴ Vaishnavi Navghare, Case Analysis: Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC 647, vidhinama, (Aug. 27, 2023, 9:29 AM), <https://vidhinama.com/case-analysis-vellore-citizens-welfare-forum-vs-union-of-india-1996-5-scc-647/>

⁵ Id, at

Additionally, the case raised questions about the enforcement of environmental laws and the liability of the tanneries for the pollution caused by their operations.

Key Issues:

Pollution caused by tanneries: The case primarily focused on the pollution caused by tanneries in and around Vellore, including the discharge of untreated effluents into water bodies, such as the Palar River. **Environmental degradation and public health:** The petitioners highlighted the adverse impacts of pollution on the environment, aquatic life, and the health of local residents. They argued that pollution control measures were inadequate and violated constitutional rights. Whether the industries had a duty to pay compensation for the ecological damage caused by their activities.

Whether Principles such as polluter-based principles and precautionary principles which are an important part of sustainable development hold any place in Indian law?⁶

Whether tanneries should be allowed expense of the lives of lakhs of people residing there?⁷

PETITIONER'S CONTENTION:

- The petitioner emphasized that the pollution caused by the tanneries had a detrimental impact on the health and well-being of the local population, as well as the flora and fauna in the area. They presented evidence of the adverse effects on the groundwater, surface water, and air quality, resulting in the contamination of natural resources and posing a risk to public health.
- The appellant argued that the discharge of untreated sewage by the tanneries had led to the degradation and pollution of the entire river, agricultural lands, wells, and soil quality in the Vellore district. They contended that this extensive pollution had severely impacted the local ecosystem and posed a threat to the sustainability of agriculture and livelihoods in the area. It was submitted that the pollution caused by the tanneries had resulted in a shortage of drinking water due to the contamination of water sources.

RESPONDENTS CONTENTION:

⁶ Id, at

⁷ Id, at

- The respondent argued that the tanneries had implemented measures to minimize pollution and had taken steps to treat effluents, although their effectiveness may have been limited.
- They emphasized that the tanneries played a crucial role in the local economy, providing employment and contributing to economic development, and strict regulation or closure would have negative consequences for the industry and workers.

LEGAL PRINCIPLES ESTABLISHED:

- **The right to a clean and healthy environment:** The court recognized that the citizens have a fundamental right to live in a⁸ clean and healthy environment, which is implicit in the right to life guaranteed by Article 21 of the Indian Constitution.⁹ This expanded the scope of fundamental rights to include environmental protection.
- **Precautionary principle:** The court affirmed the application of the precautionary principle in environmental matters. This principle holds that when there is a potential threat to the environment or public health, precautionary measures should be taken, even in the absence of scientific certainty, to prevent harm.
- **Sustainable development: Polluter pays principle:** This principle serves as an incentive for industries to adopt cleaner practices and discourages pollution.
- **Public trust doctrine:** The court recognized the public trust doctrine, which holds that natural resources such as rivers, air, and forests are held in trust by the government for the benefit of the public. The government has a duty to protect and preserve these resources for the present and future generations.

IMPACT ON EXISTING LAW

- **Strengthening of environmental protection:** The case reinforced the constitutional right to a clean and healthy environment and expanded the scope of fundamental rights to include environmental protection. This led to increased awareness and emphasis on environmental issues in legal and policy frameworks.

⁸ lawctopus, <https://www.lawctopus.com/academike/environmental-protection-supreme-court-activism/>, (last visited Aug. 21, 2023).

⁹ Id, at

- Stringent regulation and enforcement: The case highlighted the need for stricter regulation and enforcement of environmental laws. It prompted the government and regulatory bodies to take measures to ensure the effective implementation of environmental norms and regulations, particularly in industries with potential environmental impact.
- Emphasis on precautionary measures: This shift in approach influenced decision-making processes and led to the adoption of precautionary measures in environmental policy and practices.

DISSENTING OPINIONS:

There was no dissenting opinion

PUBLIC REACTION:

- Environmental Activism: The case garnered support from environmental activists and organizations, who praised the petitioners for raising awareness and advocating for a cleaner environment and sustainable development.
- Concern for Public Health: The pollution caused by tanneries raised widespread alarm about public health, as untreated effluents contaminated water sources and affected the quality of life in the Vellore district.
- Criticism of Regulatory Authorities: There was disappointment and criticism directed towards the regulatory authorities, such as the Tamil Nadu Pollution Control Board and the government, for their perceived failure to enforce environmental laws effectively. This fuelled demands for stricter enforcement and better governance in environmental protection.
- Industry and Employment Concerns: Some expressed concerns about the potential impact of strict regulations on the tannery industry and regional employment. There were debates about finding a balance between environmental protection and sustaining economic development.

ENFORCEMENT AND IMPLEMENTATION:

- Regular monitoring by regulatory authorities to ensure compliance with environmental¹⁰ norms.
- Mandate for tanneries to establish and operate effluent treatment plants.
- Government support in terms of financial assistance and technical expertise.
- Imposition of penalties and sanctions on non-compliant tanneries.
- Awareness campaigns and education to promote responsible environmental practices

SUBSEQUENT DEVELOPMENTS:

- **Implementation of Effluent Treatment Plants:** Tanneries were required to establish and operate treatment plants to manage their waste effectively and reduce pollution.
- **Strengthening of Environmental Regulations:** Efforts were made to enhance existing laws and regulations, emphasizing pollution control and environmental protection.
- **Compliance Monitoring and Enforcement:** Regulatory authorities increased monitoring and enforcement activities, conducting regular inspections, and audits, and imposing penalties on non-compliant tanneries.
- **Public Awareness and Participation:** The case raised awareness about environmental issues, leading to increased public engagement, participation, and activism in environmental conservation and pollution control.
- **Technological Advancements:** Advanced technologies and sustainable practices were adopted in the tannery industry to minimize environmental impact, including cleaner production methods and resource optimization.
- **Judicial Precedent:** The judgment set a precedent for subsequent environmental cases, providing guidance on environmental protection and outlining the responsibilities of industries and regulatory authorities

COURT OBSERVATION:

The court, in its observation, recognized the grave environmental issues arising from the pollution caused by tanneries in the Vellore district. It acknowledged the detrimental impact of untreated effluents on the river, agricultural lands, wells, and soil quality, which had resulted in water scarcity and contamination. The court noted the excessive and harmful effluents

¹⁰ Epa, <https://www.epa.gov/enforcement/basic.information>, (last visited Aug. 21, 2023).

generated by the tanneries and the failure of previous directives and subsidies provided by the government to address the issue effectively.

The court also observed the importance of striking a balance between environmental protection¹¹ and economic development. It recognized the significance of the tannery industry in the local economy, providing employment opportunities and contributing to overall economic growth. However, the court stressed that these economic interests should not come at the expense of the fundamental right¹² to a clean and healthy environment.

JUDGMENT:

The Supreme Court, after considering the arguments from both parties and examining the facts, aimed to strike a balance between environmental preservation and economic development. The Court acknowledged that tanneries play a significant role in the country's foreign exchange earnings and employment generation. However, it also recognized the environmental harm and health risks associated with their activities. Ultimately, the Court ruled in favor of the petitioners and directed all tanneries to pay a fine of Rs. 10,000 to the Collector's office. Additionally, the State of Tamil Nadu was instructed to award Mr. M. C. Mehta Rs. 50,000 as a token of appreciation for his efforts in environmental protection.¹³ The Court stressed the importance of establishing green benches specifically dedicated to handling environmental matters.

HISTORICAL CONTEXT:

The case took place in 1996 against the backdrop of a rapidly changing environmental and legal landscape in India. The 1990s marked a period of increasing global environmental awareness, with growing concerns about the impacts of industrialization on ecosystems and public health. In response to these concerns, India had enacted several environmental laws and established regulatory bodies to regulate pollution and promote sustainable development. During this time, Tamil Nadu experienced significant growth. However, the expansion of industrial activities raised alarm about the pollution being generated and its adverse effects on the environment and the well-being of the local communities. It was against this backdrop that

¹¹ Legalservicesindia, <https://www.legalservicesindia.com/law/>, (last visited Aug. 21, 2023).

¹² Id, at

¹³ Sristi Raichandani, 15 Landmark Judgments on Environmental Protection, legaldesire, (Aug. 27, 2023, 9:29 AM), <https://legaldesire.com/15-landmark-judgments-on-environmental-protection/>.

the Vellore Citizens Welfare Forum brought the case before the Supreme Court, seeking intervention to address the pollution caused by the tanneries.¹⁴



¹⁴ Thelawexpress, <https://thelawexpress.com/vellore-citizens-welfare-forum-vs-union-of-india-case-brief>, (last visited Aug. 21, 2023).