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VELLORE CITIZENS WELFARE FORUM v. UNION OF INDIA & OTHERS

- *Adrika Singh*

INTRODUCTION

“Environmental pollution is not only humanity’s treason to humanity but also a treason to all other creatures on Earth”

The environmental pollution by the tanneries and industries is happening at an unprecedented rate and it’s the need of the hour to take preventive measures against it. It is not just the environment that is being degraded by the activities of the industries, but the lives and health of the people are also being hampered. Very similar was the issue in the Vellore Citizens Welfare Forum v. Union of India¹ case. The tanneries and industries in Tamil Nadu were discharging untreated sewage into the river Palar, which was the primary source of water supply to the residential areas. It led to high concentrations of acids and chemicals in the river, which made it impossible for the people to consume the water, and hence a writ petition was filed under article 32² for a pollution-free environment. Here’s a case analysis of the Vellore Citizens Welfare Forum³ case.

DETAILS OF THE CASE

Name of the case- Vellore Citizens Welfare Forum v. Union of India & ors.

Citation- AIR 1996 SC 2715

Name of the Petitioner-Vellore Citizens Welfare Forum

Name of the Respondent- Union of India & ors.

Bench - Justice Kuldip Singh, Justice Faizan Uddin, Justice K. Venkataswami

Name of the Court- Supreme Court of India

Date of the judgement- 28/08/1996

1 Vellore Citizens’ Welfare Forum v. Union of India, (1996) 5 S.C.C. 647 (India)

2 India Const. art. 32

3 *supra* note 1.

FACTS OF THE CASE

This petition was filed by Vellore Citizens Welfare Forum, a non-governmental organisation (NGO), under Article 32 in the form of a public interest litigation (PIL). This was in response to the rampant pollution that was caused due to the discharge of untreated effluents containing harmful substances by around 900 tanneries and other such industries present in the state of Tamil Nadu. These harmful effluents were exuded by the tanneries into the Palar River, which is considered the cardinal source of potable water for the residents. This led to the contamination of water. It is reported that the effluents that are discharged contain nearly 170 harmful chemicals like sodium chloride, sodium sulphate, lime etc., causing widespread environmental degradation and posing deleterious effects on individuals health. A survey by Tamil Nadu Agriculture University Research Centre Vellore shows that nearly 35,000 hectares of agricultural land in the area become unfit for cultivation. It is also reported that close to five litres of water are used for the processing of 1 kg leather, and therefore a large amount of waste is released into the environment in a harmful manner. Amidst this scenario, where the right to a clean environment and clean water was infringed upon, a writ petition was filed.

LEGAL ISSUE INVOLVED

Whether the tanneries in the State of Tamil Nadu be allowed to function when their activities jeopardise the lives of thousands and cause irreversible harm to the environment?

ARGUMENTS OF THE PARTIES

1. PETITIONER

According to the petitioner, the Palar River, which is the principal source of potable water for the residents, has been disproportionately contaminated by the activities of the tanneries. It is also submitted that according to a preliminary survey made by the Tamil Nadu Agricultural University Research Centre, around 35,000 hectares of cultivable land have become either partially or completely non-arable. Additionally, it is also asserted by the petitioner that an independent survey conducted by Peace Members, a non-governmental organisation, which covered 13 villages of Dindigul and Peddiar Chatram Anchayat Unions, shows that 350 wells out of 467, which were earlier used for drinking and irrigation purposes, have been contaminated. This led to an acute shortage of water in the area, causing women and children to cover miles in order to get water. It was also pointed out by the learnt counsel for the Tamil Nadu Pollution Control Board, Mr R

Mohan, that the honourable court has from time-to-time given various notices to the leather industries to set up pollution control devices, but no heed was paid.

2. RESPONDENT

The respondent tanneries raised an objection, contending that the standards set by the Board concerning Total Dissolved Solids (TDS) were not justified. However, through its order dated April 9, 1996, this Court directed the National Environmental Engineering Research Institute (NEERI) to evaluate this matter and provide its expert opinion. In its subsequent report, dated June 11, 1996, NEERI upheld the standards prescribed by the Board. Notably, the Ministry of Environment and Forests (MEF) has not explicitly established specific standards for the discharge of TDS, sulphates, and chlorides into inland surface water. Instead, the responsibility for determining these standards lies with the respective State Pollution Control Boards, based on local site conditions and requirements. In light of these considerations, the standards set by the Tamil Nadu Pollution Control Board (TNPCB) were said to be duly justified.

The TNPCB-endorsed guidelines for discharging tannery wastewater into inland surface waters can be met economically through the implementation of effective in-process control measures within tanning operations. Additionally, well-structured and efficiently managed wastewater treatment systems, including Effluent Treatment Plants (ETPs) and Common Effluent Treatment Plants (CETPs), play a crucial role in ensuring compliance.

JUDGEMENT

The Supreme Court of India in this case observed that though the leather industry in India was undeniably a key foreign exchange earner, with Tamil Nadu contributing around 80% of the country's finished leather exports. While it played a crucial role in economic growth and employment generation, however, it had no right to ravage the ecosystem. Its expansion—or even continuation—must be contingent upon effectively addressing the pollution it generates. The court, while delving into this arena, said that development and ecology should go hand in hand; therefore, it discussed the principle of 'SUSTAINABLE DEVELOPMENT'⁴, which was initially explained in the Rio Declaration 1992. The phrase- Sustainable Development was given a clear definition by the 'Brundtland Report'. It defined sustainable development as "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". In the Vellore Case judgement the apex court ruled in the favour of the petitioner. It directed the central government to establish an authority under Section 3(3) of the Environment Protection Act,

4 India Const. art. 48, amended by The Constitution (Forty-second Amendment) Act, 1976.

1986⁵, empowering it to regulate tanneries and other polluting industries in Tamil Nadu. This authority was granted the power to issue directives under Section 5 of the Environment Protection Act 1986 and authority may apply the precautionary and polluters pay principles.

In the Vellore Case the apex court took a very tough stand as it imposed pollution fines on the guilty respondent tanneries. The court imposed pollution fine of ₹10,000 per tannery in North Arcot Ambedkar, Dindigal Anna, Erode Periyar, Chennai M.G.R., and Trichy payable by October 31, 1996, under the Environment Protection Fund for victim compensation and environmental restoration. The apex court also ordered the establishment of common treatment facilities, compliance with board approvals, and immediate closure of non-compliant tanneries by local authorities.

The Supreme Court upheld the Pollution Control Board's TDS guidelines for all Tamil Nadu tanneries and directed the Madras High Court to form a "Green Bench" for environmental cases.

The State of Tamil Nadu was ordered to pay ₹50,000 in legal fees to the public spirited petitioner-Mr. M.C. Mehta, lauding his proactive involvement.

THE VELLORE CASE JUDGEMENT RATIO: POST JUDGEMENT APPLICATION IN INDIA

After the judgement of the Vellore case, the ratio given was widely used in other important cases relating to environment. The decision in Vellore was used in different ways in different cases. Like in the Vijayanagar Educational Trust case⁶, and the N.D. Jayal case⁷, the court relied on the concept of 'sustainable development' used in Vellore case. Similarly, in the Arjun Gopal case⁸, the court used the concepts of sustainable development and precautionary principles.

CONCLUSION

Vellore Citizens Welfare Forum v. Union of India is one of the most important judgements delivered by the Supreme Court in matters relating to environmental pollution and environmental degradation. The court recognised the urgent need to take an action to protect the environment and the health of the residents. The Supreme Court relied upon the sustainable development concept to deliver the decision and propounded the 'polluter pays' principle and precautionary principle. The

5 Environment (Protection) Act, 1986, § 3(3), No. 29, Acts of Parliament, 1986 (India).

6 Vijayanagar Educational Trust (Regd.), Bangalore v. Karnataka State Pollution Control Board, W.P. No. 23341/2001 (Karn. H.C. Jan. 4, 2002).

7 N.D. Jayal & Anr. v. Union of India & Ors., (2004) 9 S.C.C. 362 (India) (S.C.), decided Sept. 1, 2003.

8 Arjun Gopal & Ors. v. Union of India & Ors., I.A. No. 52448/2017 in W.P. (C.) No. 728 of 2015, (S.C. Sept. 12, 2017) (India).

judgement highlighted that although industrial growth is important, but not at the expense of environmental degradation and people's lives. The ratio of the Vellore Case was extensively applied in many landmark cases by the Supreme Court and High Courts. This case became a Grund Norm of the environment protection law in India. The Vellore Case is a progressive and landmark judgement as it successfully integrated the international environmental law with the Indian environmental law. It first time applied the principle of sustainable development in India. We may conclude by saying that the Vellore Case Judgement has laid down a foundation stone on which the modern environmental law jurisprudence was built. In the Vellore Case the praiseworthy judicial creativity of the apex court led by Mr Justice Kuldip Singh must be celebrated by We the People of India .