

Water Pollution & Some Important Case Laws:

Leather industry is one of the three major industries besides paper and textiles, consuming large quantities of water for processing of hides and skins into leather. Naturally most of the water used is discharged as waste water containing putrescible organic and toxic inorganic materials which when discharged as such will deplete dissolved oxygen content of the receiving water courses resulting in the death of all aquatic life and emanating foul odour. The ***M.C. Mehta v. Union of India* [AIR 1988 SC 1037]** also known as the Kanpur Tanneries or Ganga Pollution case is among the most significant water pollution case. Detailed scientific investigations and the reports were produced before the Court as evidence.

In the case following the alarming details given by M.C. Mehta about the extent of pollution in the river Ganga due to the inflow of sewage from Kanpur only, the Court came down heavily on the Nagar Mahapalika (Municipality) and emphasised that it is the Nagar Mahapalika of Kanpur that has to bear the major responsibility for the pollution of the river near Kanpur city. The Supreme Court held:

“Where in public interest litigation owners of some of the tanneries discharging effluents from their factories in Ganga and not setting up a primary treatment plant in spite of being asked to do so for several years did not care, in spite of notice to them, even to enter appearances in the Supreme Court to express their willingness to take appropriate steps to establish the pre-treatment plants it was held that so far as they were concerned on order directing them to stop working their tanneries should be passed. It was observed that the effluent discharged from a tannery is ten times noxious when compared with the domestic sewage water which flows into the river from any urban area on its bank. It was further observed that the financial capacity of the tanneries should be considered as irrelevant while requiring them to establish primary treatment plants. Just like an industry which cannot pay minimum wages to its worker cannot be allowed to exist, a tannery which cannot set up a primary treatment plant cannot be permitted to continue to be in existence for the adverse effect on the public at large which is likely to ensue by the discharging of the trade effluents from the tannery to the river Ganga would be immense and it will outweigh any inconvenience that may be caused to the management and the labour employed by it on account of its closure”.

In ***Vineet Kumar Mathur v. Union of India* [(1996) 1 SCC 119]**, the Court took note of the continued violation of the State, as well as industries by continuing to pollute water by discharging effluents and also in not setting up of common effluent treatment plants. The Court initially directed the officers of the State Pollution Board to visit the polluting industrial establishments and make a fresh inspection of the Effluent Treatment Plants installed in the said establishments and of their working. After inspection, if it was found that the treatment plants are deficient in any respect or the deficiency pointed out earlier still continues, the Board will give reasonable time for the industries to cure the deficiencies. However, the time so given should not extend beyond the deadline set up by the Court. The Board was directed to file its report within fifteen days. The Court further held that if the industries do not obtain the consent of the State Pollution Board for running their units, before the fixed time limit the industries will stop functioning thereafter. Again in ***M.C. Mehta v. Union of India* [1997(2) SCC 411]**, the Supreme Court was concerned about the discharge of untreated effluents into the river Ganga by tanneries located in Calcutta. According to the Court the scope of the direction issued to the city of Kanpur was enlarged to include various cities located on the banks of the River Ganga.

Explaining the magnitude of the harm caused by the effluents discharged by tanneries and the callous attitude of the concerned authorities over the problem, the Supreme Court said that “It should be remembered that the effluent discharged from a tannery is ten times more noxious when compared with the domestic sewage water which flows into the river from any urban area on its banks.” And noted alarmingly that the authorities who were supposed to check the same were totally apathetic to the problem. The Court directed relocation of the tanneries to a complex and also directed the pollution control board to examine the possibility of setting up of common effluent treatment plants for the Calcutta tanneries in the four areas and indicate the cost for the same. The Court also directed the Government to acquire land for setting up a tannery complex. In a subsequent hearing the Court felt that the State Government and the Minister concerned were still working at a snail’s pace and directed the Minister in charge to file an affidavit in the Court and directed the State Government to assess the need of the tanneries. In a subsequent order the Court directed the owners of the tanneries to bear the cost of setting up the CETP as well as the cost of

relocation. The Court actually spent a lot of time to monitor the progress of the tanneries and to see whether the tanneries could function. However, as there was a total lack of seriousness from the side of the tanners, the Court set a deadline and directed that all the tanneries had to stop working as of that date even if the relocation process is not complete. The State Government was asked to assess the cost of loss caused to the environment by the tanneries and lay down the compensation that had to be recovered from the polluters. The compensation was to be recovered and utilised for restoring the environment.

In ***Ambuja Petrochemicals v. A.P. Pollution Control Board*** [AIR 1997 AP 41], one of the industries covered by the Patancheru belt of treatment plants was served with a notice for violating the Water (Prevention and Control of Pollution) Act. The industry replied to the notice. The Board however, not satisfied with the reply of the industry, directed its closure. The same was challenged in the High Court. The High Court dismissed the petition of the industry observing that under the Act, the Board had a mandate to take action against an erring industry. The High Court could not sit in appeal against the action of the Board considering the expertise of the Board in these aspects. The High Court observed that it was open to the industry to comply with the direction of the Board and make a representation which the Board would consider and if satisfied allow the industry to operate. One of the aspects to be observed here is that the industry had raised all sorts of pleas including that it was a sick industry etc. which was not appreciated by the High Court. The problem of effluent treatment is highlighted in the ***Indian Council for Enviro- Legal Action and others v. Union of India*** [1998(1) SCALE (SP) 5]. 72 industries are members of Patancheru Environtech Limited (PETL) at Patancheru. These industries send their effluents to the Patancheru plant for treatment. It was noticed that the plant was not functioning properly due to various reasons including the fact that the industries who were discharging effluents were sending effluents which was beyond the capacity of the PETL. The Court set out parameters and directed that the PETL would not accept any effluent which did not come within those parameters. The Court also held that all those industries, which were exceeding those parameters, had to stop production. This direction was also made applicable to 25 industries who were the members of the CETP at Bollaram. In ***Re Bhavani River - Shakti Sugar Mills Ltd.*** [1997(11)SCC 312] the issue was pertaining to pollution of river Bhavani from the effluents discharged by the industry. The Board under Section 33-A of the Act had issued directions, which were aimed at ensuring proper storage of the effluent in lagoons and for proper treatment and disposal of the treated effluent. The Supreme Court held that the violations of pollution law by the industry were serious, and the same was posing a health hazard. The Court directed that the industry be closed and also directed the Board to submit a compliance report within ten days.

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