

**CONTRIBUTION OF M.C.MEHTA IN THE PROTECTION OF
ENVIRONMENT THROUGH PUBLIC INTEREST
LITIGATIONS**

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ABSTRACT

In an era where people acknowledge that the environment is an extremely precarious position, but fail to create simple changes in their lifestyle to become more eco-friendly, there is a man who has sacrificed his life and dedicated his career to become the champion of India's ecological future.

Whenever a study on India's environment law and policy is being made, it is incomplete without knowing about the landmark cases on air and water pollution, environmental education and the famous Taj Mahal case, to name a few. His efforts have led to the development of environmental law in India and awareness about the hazards of smoke, gas leaks and damage done to water bodies. His name is Mahesh Chandra Mehta, also known as M.C.Mehta.

M.C.Mehta has pioneered legal activism for environmental protection and is proof that one man can make a difference. With the Supreme Court of India taking the lead, the centre of gravity of Justice has now shifted from traditional individual locus standi to the community of Public Interest Litigations.

INTRODUCTION

A lawyer by profession and a committed environmentalist by choice, he has made the fight to protect India's environment his unending mission. He has pioneered legal activism for environmental protection and is proof that one man can make a difference.

In the words of Ms Smita Gate "Often described as the One Man Enviro-legal Brigade, Mr Mehta is probably the only Supreme Court lawyer to have taken up legal cudgels with the polluting Indian Industries and come out victorious. A dedicated, fearless and extremely honest man, he pursues his goals with single-minded devotion.

He has been conferred with several prestigious awards. Some of these are the Governor's Gold Medal, the Goldman Environmental Prize, considered on alternative Noble Prize in USA and Europe, the UN's Global 500 Award for 1993 and above all the Magsaysay Award for 1997. He is the men that help to include the environmental science in all technical branch and he want that every educated person must know about our environment and they have to protect. Some of his early cases were discussed in Reader's Digest.

CONCEPT OF PILL

In Indian law, public interest litigation means litigation for the protection of the public interest. It is litigation introduced in a court of law, not by the aggrieved party but by the court itself or by any other private party. It is not necessary, for the exercise of the court's jurisdiction, that the person who is the victim of the violation of his or her right should personally approach the court. Public interest litigation is the power given to the public by courts through judicial activism. However, the person filing the petition must prove to the satisfaction of the court that the petition is being filed for a public interest and not just as a frivolous litigation by a busy body.

Such cases may occur when the victim does not have the necessary resources to commence litigation or his freedom to move court has been suppressed or encroached upon. The court can itself take cognizance of the matter and proceed suo motu or cases can commence on the petition of any public-spirited individual.

ORIGIN AND DEVELOPMENT

The seeds of the concept of public interest litigation were initially sown in India by Krishna Iyer J., in 1976 in *Mumbai Kamagar Sabha vs. Abdul Thai* (AIR 1976 SC 1455; 1976 (3) SCC 832) and was initiated in *Akhil Bhartiya Karmachari Sangh (Railway vs. Union of India*, wherein an unregistered association of workers was permitted to institute a writ petition under Art.32 of the Constitution for the redressal of common grievances. Krishna Iyer J., enunciated the reasons for liberalization of the rule of Locus Standi in *Fertilizer Corporation Kamgar vs. Union of India* (AIR 1981 SC 149; 1981 (2) SCR 52) and the ideal of 'Public Interest Litigation' was blossomed in *S.F. Gupta and others vs. Union of India*, (AIR 1982 SC 149).

PIL AND JUDICIAL ACTIVISM

Public interest litigation or social interest litigation today has great significance and drew the attention of all concerned. The traditional rule of "Locus Standi" that a person, whose right is

infringed alone can file a petition, has been considerably relaxed by the Supreme Court in its recent decisions. Now, the court permits public interest litigation at the instance of public spirited citizens for the enforcement of constitutional o- legal rights. Now, any public spirited citizen can move/approach the court for the public cause (in the interests of the public or public welfare) by filing a petition:

1. in Supreme Court under Art.32 of the Constitution;
2. in High Court under Art.226 of the Constitution; and
3. in the Court of Magistrate under Sec.133, Cr. P.C.

LANDMARK CASES

M.C. Mehta's public interest environmental litigation cases have formed the foundation for the development of environmental jurisprudence in India, and indeed, South Asia today. M.C. Mehta's cases have established the following seminal principles in Indian environmental jurisprudence:

- The constitutional right to life extends to the right to a clean and healthy environment.
- Courts are empowered to grant financial compensation as a remedy for the infringement of the right to life.
- Polluters should be held absolutely liable to compensate for harm caused by their hazardous activities.
- Public resources that are sensitive, fragile or of high ecological value should be maintained and preserved for the public.
- Similarly, the government has a responsibility to prevent environmental degradation. Even if scientific uncertainty exists, the implementation of preventative measures should not be delayed wherever there is the possibility of serious or irreversible damage.
- Green benches should be established in Indian High Courts dealing specifically with environmental cases.

TAJ MAHAL CASE¹

Taj Mahal, one of the wonders of the world and the pride of India was facing serious threat from pollution caused by Mathura Refinery, iron foundries, glass and other chemical industries. As a result of very high toxic emissions from these industries, the Taj Mahal and 255 other historic

¹ M.C.Mehta v.Union of India, [1997] 2 SC 353

monuments within the Taj trapezium were facing serious threat because of acid rain. The Petition was filed in the year 1984. The Supreme Court of India delivered a historic Judgement in December 1996. The apex Court gave various directions including banning the use of coal and coke and directing the industries to switch over to Compressed Natural Gas (CNG).

GANGA'S POLLUTION CASE²

Three landmark judgments and a number of Orders against polluting industries numbering more than fifty thousand in the Ganga basin passed from time to time. A substantial success has been achieved by way of creating awareness and controlling pollution in the river Ganges. In this case, apart from industries, more than 250 towns and cities have been ordered to put sewage treatment plants. Six hundred tanneries operating in highly congested residential area of Kolkata have been shifted out of the City and relocated in a planned Leather Complex in the State of West Bengal. A large number of industries were closed down by the Court and were allowed to reopen only after these industries set up effluent treatment plants and controlled pollution. As a result of these directions millions of people have been saved from the effects of air and water pollution in Ganga basin covering 8 states in India.

VEHICULAR POLLUTION CASE³

Against vehicular pollution in India the Supreme Court delivered a landmark judgment in 1992. A retired Judge of the Supreme Court was appointed along with three members to recommend measures for the nationwide control of vehicular pollution. Orders for providing Lead free petrol in the country and for the use of natural gas and other mode of fuels for use in the vehicles in India have been passed and carried out. Lead-free petrol had been introduced in the four metropolitan cities from April 1995; all new cars registered from April 1995 onwards have been fitted with catalytic converters; COG outlets have been set up to provide CNG as a clean fuel in Delhi and other cities in India apart from Euro 2 norms. As a result of this case, Delhi has become the first city in the world to have complete public transportation running on CNG.

² M.C.Mehta v.Union of India, AIR 1988 SC 1115

³ M.C.Mehta v.Union of India, AIR 1985 SC

DELHI SEWAGE TREATMENT PLANT CASE⁴

About 10 million people living in Delhi and millions of people living along the banks of river Yamuna were exposed to health hazards from water contamination due to total absence of sewage treatment plant in many areas of Delhi. A time bound programme was given by the Supreme Court to the Delhi Municipal Corporation for setting up of treatment plant in 16 different localities in this case.

CHILD LABOUR CASE⁵

By raising issue of exploitation of child labour in Sivakasi (Tamil Nadu) match and fireworks factories, more than one million children working in hazardous industries in Tamil Nadu and other States in India were benefited. Thus ambit of the case was widened to include child labour in the whole country. The Supreme Court directed all the States to identify children forced into labour and come out with schemes for their rehabilitation. Child labour in hazardous industries has been banned. In another case, 194 children illegally detained in different jails in Orissa were released.

ENVIRONMENTAL AWARENESS AND EDUCATION CASE⁶

Succeeded in getting orders from the Court that all over the country the cinema theatres will exhibit two slides free of cost on environment in each show failing which their licenses will be cancelled, a minimum 5 to 7 minutes will be given by the television network in the country to televise programmes on environment apart from giving a regular programme on environment. Environment has become a compulsory subject up to 12th standard from academic session 1992 and University Grants Commission will also introduce this subject in higher classes in different Universities.

KAMAL NATH CASE⁷

In the State of Himachal Pradesh, Span motel, owned by the family members of Shri Kamal Nath, Minister for Environment and Forests, Govt. of India diverted the Course of river Beas to

⁴ M.C.Mehta v.Union of India, AIR 1988 SC 440

⁵ M.C.Mehta v.State of TamilNadu, AIR 1997 SC 669

⁶ M.C.Mehta v.Union of India, AIR 2003 SC 4016

⁷ M.C.Mehta v.Kamal Nath, AIR 1999 SC 2468

beautify the motel and also encroached upon some forest land. The apex court ordered the management of the Span motel to hand over forest land to the Govt. of Himachal Pradesh and remove all sorts of encroachments. The Court delivered a landmark judgment and established principle of exemplary damages for the first time in India. The Court said that polluter must pay to reverse the damage caused by his act and imposed a fine of Rs Ten Lakhs (Rs 10,00,000) on the Span motel as exemplary damages. The Supreme Court of India recognised Polluter Pays Principle and Public Trust Doctrine.

COASTAL AREAS CASE⁸

Despite Coastal Zone Regulation Notification of February 1991, none of the coastal states had formulated coastal zone management plan, with the result that haphazard construction and industrial activity was being permitted anywhere in the coast leading to large scale damage to coastal ecology and loss of livelihood to lakhs of fishermen and other indigenous communities dependent on marine resources. A writ petition was filed on behalf of Indian Council for Environ- Legal Action (ICELA) and the Supreme Court delivered a landmark Judgement banning industrial/ construction activity within 500 mtrs of the High Tide Line and set a time limit for the coastal states to formulate coastal management plans.

CONCLUSION

In a democracy like India, the concept of rule of law is the basic feature of the constitution of India and that part of its basic structure which indestructible. Article 21 of the constitution has been judicially interpreted to mean right to life with dignity and not merely animal existence. It is submitted that the Supreme Court has used the Constitution of India as a source of reservoir for imparting environmental justice in India. It is evident from the fact that the apex court used extraordinary remedial power under Article 32 of the Constitution which contributed immensely in the evolution of the new Constitutional national. I would like to conclude with the words of M.C. Mehta *"After 50 years what have we achieved? We had vast natural resources. But now, what do we have? We have polluted the rivers and lakes as well as ground water lying 200 meters below, the forest cover has decreased from 33 per cent to 11 per cent and even the glaciers in the Himalayas are melting. The entire food chain has been disturbed. What you're consuming today is nothing but heavy metals...So what is the quality of life?"*

⁸ M.C.Mehta v.Union of India, AIR 1996 SC 510