

RURAL LITIGATION AND ENTITLEMENT KENDRA & ORS. V. STATE OF UTTAR PRADESH & ORS.

[(1985) SCR (3) 169]

COURT: SUPREME COURT OF INDIA

CITATION: [(1985) SCR (3) 169]

BENCH: Bhagwati P. N., Nath Sen A., Misra R. JJJ

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RELEVANT SECTION/ARTICLE: Article 51A (g), Article 21, Article 48A & Article 32 of the Constitution of India, Forest Conservation Act, 1980, and Mines Act

FACTS OF THE CASE:

- 1) This case is also called the 'Dehradun valley litigation' or the 'Doon valley case'. Limestone was being quarried from the Mussoorie range of the Himalayas by blowing up part of the hills with dynamite. There was loss of vegetation in the area due to the quarrying activities, which resulted in landslides in the areas, killing the villagers and destroying their house and cattle. It was also creating water pollution and soil erosion in the area. The natural beauty of the Valley had gone.
- 2) Mining was banned by the Uttar Pradesh Minister of mines in the year 1961. However, in 1962, the state government allowed mining leases for 20 years and quarry operations restarted. In 1982, the state decline renewal of 18 leases on the basis of ecological destruction. However, the Allahabad High court granted an injunction which allowed mining to be continued. The court granted the permission by considering economic profit over ecological factors.

- 3) In 1983, a non-governmental group, the Rural Litigation and Entitlement Kendra, send a letter to the Supreme court against this environmental degradation. The court decided to accept the letter as a writ petition under Article 32 of the Indian constitution. Later on another application with similar allegations were filed and it was decided that the two petitions will be heard together. The supreme court ordered an enquiry of all the mining operations taking place in the valley and also asked the State government to undertake certain measure for reforestation of the area.

ISSUES RAISED:

- ❖ Whether the mining activities in the Doon Valley are violative of the Forest Conservation Act, 1980 as it forbids non-forest activities in the forest land?
- ❖ Should the Forest Conservation Act, 1980 be valid in the renewal procedure of leases or not? Leases were settled to mining operators in 1962 and a forest conservation act was approved in 1980.
- ❖ Which is more important, conservation of the environment or economic growth and profit of the country?

RULE OF LAW WHICH APPLIES:

The Forest Conservation Act, 1980 was passed by the Parliament with the aim of protecting the forest, its flora and fauna. It aims at preventing deforestation and safeguard the ecological balance in nature.

The act prohibits using the forest lands for any non-forest purpose unless prior permission has been taken from the Central government. Non-forest purposes have been defined as any act that may require to breakup or clear any forest area other than the purpose of reforestation. The 1988 amendment of the act, also prohibits leasing of the forest to anyone.

The forest area shouldn't just be protected but measures need to be taken to enhance it. 30% of the Nation should be under adequate forest cover. Again, in 1992, this act was amended. The 1992 amendment created provisions for some non-forest activity in the forest. Cultivation of certain plants such as rubber, tea, coffee, etc. where not allowed.

Mining activities, which fall under non-forest activities, can be allowed in the forests but with the permission of the Central government. Before performing any non-forest activity, the state government must submit a cost benefit analysis and an Environmental Impact Statement.

Section 51A(g) of the Forest Conservation Act, 1980, states that it is the duty of every Indian citizen to protect and improve the natural environment including the forests of the country.

Under article 21 of the Indian constitution, the right to live in a healthy environment has been considered a fundamental right. Article 48A of the directive principles of the state policy also mentions that the state is entitled to make laws for the protection and improvement of the environment to safeguard the forests of the country.

APPLICATION OF RULE OF LAW WHICH APPLIES:

Previously, 'Forest' was covered under the State List. However, in 1976, under the 42nd Amendment it was removed from the state list and inserted in the Concurrent list. This change was brought about when the Central government realized that forests were also a matter of national interest.

Initially this litigation started with two applications seeking relief, but over the time, more than hundred mines and governmental agencies joined the litigation making it complex. This forced the court appoint several committees to check whether the quarries were following the safety standards and rules mentioned in Mines Act of 1952. The court also directed the mines and quarries to refrain from blasting operations, although it was modified later on. One such committee called the Bhargav committee was set up to inspect the limestone quarries in question. This committee divided the quarries into three categories- quarries where mining maybe carried on after taking necessary safety measure (Group A), quarries where mining may not be shut down gradually (Group B), quarries where mining needs to be shut down immediately (Group C). It prepared reports on the mines on the damage caused by the mines to the valley and also made a list of mines that were permitted to function.

In 1985, the court held that the C category of the mines should be completely shut down. No mine should be able to take advantage of the fact that they have been granted permission to continue its operations even after the expiry of its lease. Category A and B of the mines were subject to further investigation.

Another committee called the Bandyopadhyay Committee was formed in 1952, to review the report of the previous committee. It also allowed the miners to submit plans to safeguard the environment and to hear the claims of people who were negatively affected by the mining in the region.

The court also considered various ecological factors like the natural resource water, which were being adversely affected due to the quarrying activities. Initially limestone quarrying was carried out only in a small government controlled manner.

However, in the Bandyopadhyay Committee report it was seen that with time, over 105 quarrying licenses were issued that were affecting the environment. According to the report of this committee, the court came to the conclusion that mining in the valley should be stopped. Later it stated that mining should only be allowed to an extent if it is necessary in the interest of defence of the country and safeguarding of foreign exchange position.

The court rejected the first affidavit that was submitted by the central government on the uses of limestone in industries in Uttar Pradesh. It failed to provide a satisfactory list of alternative resources of limestone in India. The second affidavit all the required evaluations that helped the court come to the conclusion that mining in the Dehradun-Mussoorie Region was not justified.

In 1986, when this case was still on trial, the Environment Protection Act was passed. The miners contended that the court should dismiss the case and the issue should be left with the concerning authorities under Environment Protection. The court however, rejected this argument on the grounds that the litigation had already started and necessary orders have been passed to the Environment Protection Act was passed.

In 1988, the supreme court held that the mining in the Dehradun Valley region did violate the Forest conservation act, although, the act only prohibits non-forest activities that are not approved by the government. It concluded that although the mines significantly provide to the country's economy, its functioning should not be allowed at the cost of the environment. As a result, the mines in the valley were ordered to be closed permanently, except for three specified mines.

Later a Monitoring Committee was set up by the court to oversee the process of reforestation, mining and restore the condition of the Doon Valley. This committee comprised of Central, State, and Local officials and two 'public-spirited' citizens. The operating mines have to follow the undertaking given by the committee and ensure that the ecological and environmental balance is preserved. The court also ordered the mines to the mines that were allowed to operate in the area, have to give 25% of the profit to the committee as deposit. On the expiry of the lease, the mines were not allowed to carry on with the mining activities or seek for renewal of their leases. The Vijay Shree Mines, one of the mines that was allowed to continue its operation until 1990, misused its permission and continued to quarry lime stones in an unscientific manner. This cause great damage to the area and Vijay Shree Mines was ordered to pay a fine of Rs.3 lakhs by the court.

There was an issue regarding the whether the mining leases need to be done according to the Forest Conservation Act, 1980. The Supreme Court of India held that for the renewal of a lease, the law in force during the date of renewal should be followed. Previously, renewal of mining leases was not a vested right and unless prior concurrence of the Central Government was obtained mining in a forest area was completely prohibited. The approval of the Central Government is a condition precedent and the grant of a lease or renewal without such approval renders the lease void. The same has been seen in the case of Ambika Quarry Works case. The Supreme court issued the following directions:

1. The mine lessees whose operations were terminated by the court would be given priority for leases in new areas open to limestone mining.
2. The Eco-Task Force of the central department of Environment should undertake the duty of reforesting the area that has been damaged by mining. The workers who have

lost their jobs due to the shutting down of the mine must be given priority for jobs with the Eco-Task Force operations in the region.

The outcome of the Dehradun Valley litigation was the ARC Cement Case. In this case, the company was originally functioning in the valley, but was ordered by the supreme court to relocate as it was polluting the area. The petitioner was asked to provide the court with alternative options where the factory could be shifted after conferring with the State Government and the Pollution Board. However, after four years, the company still hadn't been able to come up with a new location for the company. In November, 1991, the supreme court recorded some of the terms of a general understanding between the company and the UP State Mineral Development Corporation for the supply of limestone and other related issues. When no decision was reached on where the new site should be, the court acknowledged that certain aspects of the arrangement remained to be negotiated between the parties.

However, the company could not be relocated and the factory failed. In 1995, the Board for Industrial and Financial Reconstruction ordered ARC Cement to wind up.

CONCLUSION:

Economic growth and protection of environment have always been a conflict for each other. Yet, a balance must be established between them and laws must be made accordingly. The goal of sustainable development can only be achieved with the help of the state.

A sustainable approach needs to be followed to have a healthy environment, there must exist a balance between development and ecology. Ecological degradation cannot take place at the stake of national economy.

This case was a landmark judgement as it was the first case that required the court to balance environmental and ecological integrity against industrial demands. The questions arising from this case are not only important to the people of the Mussoorie Hill range of the Himalayas but also affects the welfare of the generality of people living in the country at large.

The judges have emphasized on environmental issues rather than just focusing on the legal aspect.

A process must be implemented which can ensure sustainable development for generations by simultaneously improving the quality of human life as well as living harmoniously with nature while maintaining the carrying capacity of life supporting ecosystem. It mainly focuses on the integration of developmental and environmental imperatives. Thus it can be conferred that, sustainable development is the only solution and administrative actions must be taken accordingly.

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