

**MC MEHTA & Anr. V. UNION OF INDIA & Ors.**

PUBLIC INTEREST LITIGATION FILED UNDER ARTICLE -32 OF THE  
INDIAN CONSTITUTION

AIR 1987 SUPREME COURT 965: :(1986) 1 SCR 312 (SC)

- Muskan Sharma

**Court** – Supreme Court of India

**Bench** – Bhagwati, P.N. (CJ)

**Decided on** – 17<sup>th</sup> February, 1986

**Relevant Sections** – Articles – 21 & 32 of the Indian Constitution

**FACTS**

1. There was a factory situated in the densely populated area of Delhi by the name Shiriram Food and Fertilizer Industry (SFFI), it is a subsidiary of Delhi Cloth Mill Ltd.
2. It had various units and was manufacturer of caustic soda, chlorine, hydrochloric acid, vanaspati, sodium sulphate etc.
3. There was a leakage in one of the tanks of Oleum gas which is a hazardous gas. This leakage affects not only the workers of the factory but also the general public. It was found also that an advocate died on account of inhalation of oleum gas.
4. The leakage in the tank occurs because of the collapse of the structure of which the tank was mounted.

5. The incident took place on 4<sup>th</sup> December 1985. The district Magistrate on 6<sup>th</sup> December 1985 ordered the close of the factory and relocation of hazardous chemicals to a safe place.
6. A writ petition was filed by social activist lawyer M.C Mehta under Article 21 and 32 of the constitution. He sought the closure of the factory because it was engaged in manufacturing of hazardous substances.

### **ISSUES**

1. Whether industries like this who dealt with hazardous substances should be allowed to function in such a densely populated area?
2. Whether Shriram industry would be allowed to function again with such hazardous substances and if yes, what would be the criteria that they should follow so that there is no longer risk to anyone's life?
3. What kind of liability arises in such cases?

### **RULES**

1. Article 21 of the constitution
2. Article 32 of the constitution

### **APPLICATION OF RULES**

Article 21 of the constitution states that no person shall be deprived of his life or personal liberty except according to the procedure established by law.

The applicant argued that Right to healthy and pollution free environment is also a fundamental right which comes under the ambit of Article 21 of the constitution. Therefore, the factory should be closed as it goes against the fundamental rights.

Scope of Article 32 of the constitution

The court observed that Article 32 is not limited to issuing directions or preventive measures when fundamental rights are violated or threaten to be violated, the court has the power under article 32 to grant remedies to enforce fundamental rights.

The court appointed two committee, one committee was appointed to ascertain whether recommendations of Manmohan Committee were properly implemented or not. The second committee was appointed under the leadership of Dr. Nilay Chowdhary to look after the possible course of action can be taken to ensure the safety of the people because the court believed that it would be wrong to permanently close the industry because more than 4000 workers would be left unemployed and the chemicals manufactured in that factory like chlorine are of great significance to the general public and impeding the production of the same would be against the benefit of the society.

The committee headed by Dr. Nilay Chowdhary made a report in lines with the Manmohan Committee and set out 14 guidelines to minimize the risk associated with the factory.

The court also observed that rule of strict liability in **Rylands v. Fletcher case** doesn't apply in such cases. In such cases where an industry is dealing with hazardous substances, situated around a community owes an absolute and non-delegable duty towards that community. The industry must ensure a high level of safety of the people residing or working nearby.

The court held that the rule of strict liability cannot be applied in such cases because this rule was evolved in 19<sup>th</sup> century, at that time the technology and science was not developed. But now, there is a need of new laws which can adequately deal with new problems. Therefore, the court introduced the concept of absolute liability or no-fault liability, an industry dealing with hazardous substances would be liable for the compensation for the harm caused by it even if the harm was caused by an act of God, the company owes absolute liability towards it. there is no defence mechanism is absolute liability.

## **CONCLUSION**

This is a landmark judgement through which the concept of absolute liability came. It has a huge impact in the matters of environmental concern, through this judgement the court highlighted that industry owe responsibility not only towards people but also towards environment. Right to a healthy and pollution free environment is a fundamental right.



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