

ALMITRA H. PATEL & ORS. v. UNION OF INDIA AND ORS.

[(1998) 2 SCC 416]

Facts:

The petitioner had filed the petition looking into the poor management of waste and the environmental pollution in the capital city Delhi. It is one of the most polluted cities in the world and the management has been lacking to overcome it. The main concern was that the authorities who are responsible for the protection of the environment and its control lacked in providing a clean and clear environment and healthy air to the residents of the city. The air quality was so bad that the people living there couldn't breathe properly and a large number of them have suffered from severe throat infections and respiratory diseases. Apart from this, the petitioner contended that the river Yamuna which provides drinking water has been treated as an open dumping place for sewage and industrial waste. Air and water and everything in the city is not fit and the whole city and is treated as an open dustbin and the Delhi authorities were not taking any action on it. All this led the petitioner to file a Public Interest Litigation in the court as the waste management by the concerned authority was lacking and the air quality was deteriorating, and no steps were taken against it.

Issues:

The issues which were involved in the case are as follows:

1. Whether the Municipal Corporation of Delhi responsible for all the disorganization of waste management in the city?
2. Whether there was any need for recommendations to be given and if given who will be responsible for looking into the implementation of the same?

Rule:

The Hon'ble court in the given case based its judgement on *The Hazardous Waste (Management and Handling) Rules, 1989* in accordance with the *Basel Convention, 1992* which aimed to reduce the movements of hazardous waste and also ensure prevention of hazardous waste transfer from developed to developing nations. Also, the concept of *Customs Act* was undertaken with demanding of requisite amendments to curtail the imports of potentially hazardous substances. Furthermore, *Article 21* of the Constitution of India was also taken into consideration with a pollution free, healthy environment, safe drinking water being

considered to be a fundamental right. Lastly, the 12th schedule in the constitution was relied upon which deals with functions of urban administration including urban & town planning, public health, and solid waste management.

Application:

The court here ordered for a committee to be formed and laid down the aspects which it needs to specifically look into. The aspects which the committee was asked to look into was to: 1) Examine all the existing practices of the waste disposal and management and suggest hygienic and technological proven practices for better disposal which is economically feasible and which the government and concerned authorities can directly or indirectly sponsor or adopt; 2) examine and suggest means by which the formal and the informal sector can be improved for promoting eco-friendly disposal, collection, transportation, segregation, reuse and recycle of waste; 3) review the bye-laws of the municipal corporation, regional authorities and local bodies and suggest modifications for effective management, administration, budgeting, financing and compliance; 4) examine the standards and regulations of the solid waste in urban areas and formulate it, also set a time frame within which the authorities need to present report on the above mentioned points. It is crucial to note that the committee has been made for class 1 cities and has to abide by the rules laid down for maintaining the level of hazardous waste and pollution. Here the work of the committee was to focus on suggestions which were easy to implement and economical in nature to manage waste and focus on three things, reuse, reduce and recycle in order to tackle the issues raised herein. The Supreme court has iterated the same in one of its direction that a state owes a duty to protect the environment and find alternatives to maintain it in an eco-friendly way and, come out of a toxic and harmful environment for the health and well-being of the citizens as granted under article 21 of the Constitution. The concept of *Polluter Pays Principle* was taken into account which states that any person or industrialist who are responsible for any damage to the environment are liable to pay not only to the persons who suffer from it but also pay for the restoration of the damage caused to the ecology. The court here noted that The Hazardous Waste (Management and Rulings), 1989 to be in consonance with the Basel Convention and amendments be made into it looking into the current situation of the country to overcome any loopholes so as to manage the ever rising water and air pollution crisis in the city with the authorities taking requisite steps to check the deterioration and subsequently bring about establishment of laboratories with experts and advanced equipment to check the importing hazardous waste contains all the components and are permitted by the exported and importing country along with the authenticity of the

certificate of the same. Changes in the Customs Act and all other acts dealing in the import export and handling of the hazardous waste must be undertaken along with proper records of the consignment and its transportation which must be available to the central government along with the NGOs in this field. Moreover, the court in this case held that any violation of the rules laid down by the Management and Municipal Corporation would attract serious actions and all the stated necessary measures must be taken to reduce further degradation of the environment.

Conclusion:

The environment is the most valuable thing for the species to survive including humans, which was very precisely described in the present case of *Almitra H Patel v. UOI*. This case was one of the leading cases in matters related to waste management by authorities. This case showed that when the authorities appointed by the statutes are reluctant towards their duties, the citizens and the courts play an important role in correcting the same. As pointed out many times in this case the onus lies on the government to look after the waste management is done properly. The environmental laws in this country and their implementation in the country is more or less dependent on the initiatives of citizens and the judicial system after looking at the mismanagement on the part of the administration.