



Hamid Khan vs State of M.P. And Ors.

AIR 1997 MP 191

Country: India

Region:

Year: 1997

Court: Madhya Pradesh

Facts

A Public Interest Litigation under Article 226 of the Constitution of India was filed by a public-spirited advocate of Mandala, alleging the State Government of apathy and gross negligence in not supplying clean drinking water from hand pumps, which has caused into colossal damage to the village population resulting into bone/skeletal deformities and dental issues. The hand-pumps, installed by the State Government for supplying drinking water, contained excessive fluoride owing to the failure of the government to take the fluoride test, which was not mandated by the "old guidelines" of the Public Health Engineering Department of Madhya Pradesh. After the reports of deformities suffered by people were received, a survey was conducted, which found out excessive content of fluoride in the groundwater. This had caused damage to the health and well-being of the population of the district and was, thus, in violation of Articles 21 and 47 of the Constitution of India. Failure to conduct the fluoride test was in breach of the responsibility bestowed on the state government under Article 47 of the India Constitution, under which the state has a responsibility to improve the level of nutrition and public health and violation of citizen's fundamental right to life under Article 21 of the Indian Constitution. The PIL filed by the advocate had support and signatures of the affected people, as an annexure.

Decision and Reasoning

The Court found the State responsible for not taking proper precaution to provide clean drinking water to its citizens, which resulted in the violation of their Right to Life under Article 21. The Court held that the state must fulfill its responsibility under Article 47, by taking measures to clean the drinking water and therefore ordered the state authorities to provide free medical treatment either by surgery or calipers to the affected person to undo the hard caused. For those individuals requiring surgery, the Court ordered the State to provide them with Rs. 3,000, in addition to free medical treatment. For those individuals suffering only dental fluorosis, the Court ordered the State to provide them with Rs. 200, in addition to free medical treatment. It ordered the state government for closing down of the tube wells which had excessive fluoride and make arrangement for alternative clean drinking water. The Court expressed its preference for the entire remediation process to be completed within one year.

Decision Excerpts

"Under Article 47 of the Constitution of India, it is the responsibility of the State to raise the level of nutrition and the standard of living of its people and the improvement of public health. It is incumbent on State to improve the health of the public providing unpolluted drinking water." (Para. 6)

"... Article 21 of the Constitution of India [provides for] the right of the citizens of India to have the protection of life, to have pollution-free air and pure water." (Para. 6)

"[I]t was the duty of the State towards every citizen of India to provide pure drinking water." (Para. 6).