



## M.C. Mehta v. Union of India (Kanpur Tanneries)

1988 AIR 1115; 1988 SCR (2) 530; 1988 SCC (1) 471; JT 1988 (1) 69

**Country:** India

**Region:** Asia

**Year:** 1988

**Court:** Supreme Court

**Health Topics:** Environmental health, Infectious diseases, Water, sanitation and hygiene

**Human Rights:** Right to a clean environment, Right to health, Right to life, Right to water and sanitation

### Facts

Due to discharge of untreated effluents in the Ganga river, the water of the river was rendered unsafe for drinking, fishing and bathing purposes, essentially creating a public nuisance.

In *M.C. Mehta v. Union of India & ors.*, ((1987) 4 S.C.C. 463), the Court had held the city municipality, Kanpur Nagar Mahapalika (Mahapalika), responsible for water pollution. The Mahapalika had a statutory duty to protect the environment and maintain public cleanliness. The duties and powers of the Mahapalika and its authorities were set out in Chapter V of the Uttar Pradesh Nagar Mahapalika Adhiniyam (the Act), Chapter 114, Clauses (iii), (vii) and (viii), which also

Moreover, Central and State Boards appointed under the Water (Prevention and Control of Pollution) Act, 1974 (Water Act) were responsible for the prevention and control of water pollution. The Central Board supervised the State boards and advised the Central Government. The State Boards were responsible for the actual water pollution management and control programs, and it had the power to take emergency measures, including applying to a Magistrate to restrain an entity who is causing pollution.

Additionally, The Environment (Protection) Act, 1986 (EPA) provided that when pollution was caused by a government department the head of that government department would be guilty of an offence and liable for punishment.

The issue before the Court was whether the Petitioner, Mr. M.C. Mehta could file this petition in the Court and who should be held responsible for the pollution.

### Decision and Reasoning

As to whether the Petitioner could file the petition, the Court held that since the pollution was a “public nuisance” and “indiscriminate in its effect”, it was to be treated as a public interest litigation. Holding that Mr. Mehta was a person interested in protecting people who used the water, the Court held that he could file a petition to enforce the statutory provisions against the Mahapalika and against other statutory bodies involved.

On the effects of water pollution, the Court made particular mention of the increased incidence of water-borne disease that resulted from poor water management and the consequent risks such diseases posed to the communities which shared the water source. Regarding the benefits of preventing pollution, the Court stressed that prevention of water pollution will result in a “general improvement in the standard of health of the population.” It further noted that the process of prevention could potentially be used as manure and thus help the agriculture industry. The Court also held that measures of prevention not being unduly costly were within the reach of, both, developing and developed nations.

On the issue of responsibility for the pollution, the Court held that it was the responsibility of industries to ensure that their industrial waste was treated before being discharged. It held that industrial licences should be issued only when the industry can demonstrate that it has adequate provision for the treatment of trade effluents. It further held that action should be taken against existing industries if they were found responsible for water pollution.

The Court also held the Mahapalika responsible for not taking steps to check pollution and for not abiding by its statutory duties. It directed the Mahapalika to take immediate steps to put schemes and policies in place to check pollution and to submit proposals concerning sewage treatment works of the Board’s sewage treatment

facility in the area within six months of the order.

The Court further held that under Article 51A of the Constitution, the Central Government had a duty to prevent pollution and improve the environment. It was, therefore, the Central Government's duty to increase awareness in the nation by providing for compulsory study of the natural environment. The Court directed the Central Government to publish and distribute books, free of cost, for this purpose. The Court further directed the High Court to refrain from ordering a stay of criminal proceedings when the State Board has instituted criminal prosecution against industrialists for pollution.

The Court held that the judgment was to apply to all Mahapalikas "which have jurisdiction over the areas through which the river Ganga flows."

### **Decision Excerpts**

"It is now recognised in most countries that it is the responsibility of industries to treat their trade wastes in such a way that they do not deteriorate the quality of the receiving waters, which otherwise would make the utilisation of such polluted waters very difficult or costly for downstream settlers." (1988) 2 SCR 530, pg. 551

"The Nagar Mahapalika of Kanpur had to bear the major responsibility for the pollution of the river near the Kanpur city." (1988) 2 SCR 530, pg. 552

"The nuisance caused by the pollution of the river Ganga is a public nuisance, which is wide spread in range and indiscriminate in its effect and it would not be reasonable to expect any particular person to take proceedings to stop it as distinct from the community at large. The petition has been entertained as a Public Interest Litigation." (1988) 2 SCR 530, pg. 552

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