



Subhash Kumar v. State of Bihar and others

A.I.R. 1991 S.C. 420 (India).

Country: India

Region: Asia

Year: 1991

Court: Supreme Court

Health Topics: Environmental health, Water, sanitation and hygiene

Human Rights: Right to life

Facts

The petitioner, an influential businessman, filed a public interest litigation claim against two iron and steel companies, which the petitioner claimed had created health risks by dumping surplus waste from factory washeries in the form of sludge and slurry into the nearby Bokaro river. According to the petitioner, the sludge and slurry had been deposited on agricultural land, which left a harmful "carbonaceous product" on the soil. The petitioner also alleged that the State Pollution Control Board (Board) had failed to take appropriate steps for preventing pollution and had even granted leases to individuals for the collection of slurry.

The petitioner asked the Court to take legal action against the companies under the Water (Prevention and Control of Pollution) Act of 1974. In addition, the petitioner requested that the court permit him to also collect washeries sludge and slurry as interim relief. In response, the Board claimed it had adequately monitored the quality of effluent entering the river. The respondent companies also claimed that they had sufficiently adhered to the instructions of the Board for preventing pollution caused from their operations.

The case originated in the Patna High Court where a Full Bench had found that the slurry was not coal for purposes of the regulatory provisions of the Mines and Mineral (Regulation and Development) Act of 1957, and therefore not the property of the companies. While the companies appealed the High Court's decision, the applicant filed the present case under Article 32, which provides the extraordinary procedure of appealing to the Supreme Court in the interest of protecting a citizen's fundamental right.

Decision and Reasoning

The Court dismissed the petition. The Board had taken effective steps to prevent the discharge of sludge or slurry from the respondent company's washeries into the Bokaro river. Moreover, the petition did not qualify as public interest litigation insofar as it was filed by the petitioner based on his own interest in obtaining larger quantities of slurry from one of the respondent companies, from which he had begun purchasing slurry for several years prior to the instant writ petition.

Decision Excerpts

"7...Right to live is a fundamental right under Art. 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Art. 32 of the Constitution for removing the pollution of water or air which may be determined to the quality of life. A petition under Art. 32 for the prevention of pollution is maintainable at the instance of affected persons or even by a group of social workers or journalists. But recourse to proceeding under Art. 32 of the Constitution should be taken by a person genuinely interested in the protection of society on behalf of the community. Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions under Article 32, are entertained it would amount to abuse of process of the Court, preventing speedy remedy to other genuine petitioners from this Court. Personal interest cannot be enforced though the process of this Court under Art. 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceeding for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking the jurisdiction of this Court under Art. 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is duty of this Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of

this Court for personal matters under the garb of the public interest litigation..." Page 5.

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