

Some Legal Cases on Ganga River Pollution

Singhal, A.K.

Department of Law, Subharthi University, Meerut, Uttar Pradesh, India

Email: drashiah.singhal@gmail.com

Abstract: Almost every day we hear news about pollution of water, air, land etc. These are caused by anthropogenic activities. Up to some extent our own actions lead to that pollution. The river pollution is one of the major water pollution. Many rivers are getting polluted day by day due to industrial, agricultural, and other activities. Chemical waste products released from industrial processes like cyanide, zinc, lead, copper, cadmium and mercury are sometimes accidentally discharged into rivers. Due to these substances fish and other animals are killed immediately as they may enter the food chain and accumulate until they reach toxic levels, eventually killing birds, fish and mammals. Industry often uses water for cooling processes, sometimes discharging large quantities of warm water back into rivers. The problem of river pollution has acquired international dimension and India is no exception to it. There is need for the effective enforcement of the Constitutional mandate and other environmental legislations to protect and conserve the rivers. It has been observed that Supreme Court of India has been actively engaged in the protection of environment and many Public Interest Litigations have been instituted against many industries for failing to provide adequate pollution control. In the present paper, an attempt has been made to briefly outline the Supreme Court cases against Ganga pollution.

[Singhal, A.K.. Some legal cases on Ganga river pollution. Researcher. 2012;4(2):61-63]. (ISSN: 1553-9865). <http://www.sciencepub.net>. 12

Key words: Ganga river; pollution; environment; Public Interest Litigation

1. Introduction

River Ganga is also known as the Ganga Maata as it is one of the most sacred rivers and is believed as having special purity after many research conducted on the Ganga water. The mighty Ganga is not only the river but much more to the millions for whom the Ganga is a symbol of faith, hope, substance and sanity. Hence it is declared as National river of India by the Prime Minister Manmohan Singh on November 4, 2008. It also acts as a life line of the one of the heavily populated region of India. Kanpur, Allahabad and Varanasi cities are situated on the bank of this river. Domestic and industrial wastes are the main sources of pollution in the Ganga River. Domestic and industrial pollution, combined with deforestation, use of pesticides and fertilizers and other factors, have rendered the water of Ganga unfit for drinking or bathing (www.sankatmochan.tripod.com).

A number of studies have been carried out on the characteristics of Ganga water including physico-chemical and biological. In a study conducted on the quality of Ganga River at Kanpur it was found that tanneries significantly increased the pollution load of Ganga River and discharge huge amounts of effluents containing organic wastes and heavy metals (Saena *et al.* 1966). A study was conducted on Ganga pollution at Allahabad, also reported role of industries manufacturing fertilizers in river water pollution (Chandra, 1981). Another study conducted by it is also indicated that domestic sewage effluents of the industries, burning of dead bodies at the river ghats, use of detergents,

pesticides used in agriculture causes pollution in River Ganga at Varanasi (Mehrotra, 1990).

Keeping the view of reduction in pollution, Government of India launched the Ganga Action Plan in 1986 with an expenditure of over five billion rupees. However, government claims that the schemes under the Ganga Action Plan have been successful, actual measurements and scientific data tell a different story.

National Ganga River Basin Authority (NGRBA) was set up by the Central Government in February, 2009. It is an authority for conservation of the river Ganga with a river basin approach.

A number of cases on Ganga pollution issue have also been initiated through PIL in Supreme Court as under:

2. Case Studies

The Ganga pollution cases are the most significant water pollution cases to date. In 1985, M.C. Mehta, an activist advocate and social worker filed a writ petition under Article 32 of the constitution. Among other things, the petition was directed at the Kanpur Municipality's failure to present waste water from polluting the Ganga. Mehta asked the court to other Government authorities and tanneries at Jajmau near Kanpur to stop polluting the Ganga with sewage and trade effluents (M.C. Mehta vs. Union of India, 1988).

The ensuing litigation involved 89 named respondents and the Supreme Court noticed the action as a representative action under Order 1 Rule 8 of the Code of Civil Procedure. The Court bifurcated the

litigation, dealing separately with pollution caused by tanneries and municipalities. The court issued two major opinions in the case. In Mehta I, the court ruled in the action against the tanneries and in Mehta II the Court ruled in the action against municipalities and other Government entities.

2.1 M.C. Mehta vs. Union of India (Mehta I-Tanneries)

In *M.C. Mehta vs Union of India (Mehta I-Tanneries)* Venkataramiah.J. held that this is a public interest litigation i.e. litigation for the protection of public interest (Rosencranz, 1992). Since the late 1970s the Supreme Court, has allowed any member of the public having sufficient interest to initiate the legal process to ensure the protection and improvement of the natural environment. This has come to be called Public Interest Litigation (PIL) (Rosencranz, 2011). The petitioner who is an active social worker has filed this petition inter alia for the issue of a writ/order/direction in the nature of mandamus to the respondents other than respondent 1 is the Union of India, respondent 7 is the chairman of the Central Board for Prevention and Control of Pollution, respondent 8 is the chairman, Uttar Pradesh Pollution Control Board and respondent 9 is the Indian Standard Institute, Respondent 1,7, 8 and 9 restraining them from letting out the trade effluents into the river Ganga till such time they put up necessary treatment plants for treating the trade effluents in order to arrest the pollution of water in the said river.

Water is the most important of the elements of nature. River valleys have been the cradles of civilization from the beginning of the world. Aryan civilization grew around the town and villages on the banks of the river Ganga. Varanasi, which is one of the cities on the banks of the river Ganga is considered to be one of the oldest human settlements in the world. It is purifier of all but we are now led to the situation that action has to be taken to prevent the pollution of the water of the river Ganga since we have reached a stage that any further pollution of the river water is likely to lead to a catastrophe. There are today large towns inhabited by millions of people on the banks of the river Ganga. There are also large industries on its banks. Sewage of the towns and cities on the banks of the river and the trade effluents of the factories and other industries are continuously being discharged into the river. It is the complaint of the petitioner that neither the Government nor the people are giving adequate attention to stop the pollution of the river Ganga. Steps have, there fore, to be taken for the purpose of protecting the cleanliness of the stream in the river Ganga, which is in fact the life sustainer of a large part of northern India.

The court invoked the Water Act as an indication of the importance of the prevention and

control of water pollution. The court emphasized that notwithstanding the comprehensive provisions contained in the Water Act the State Boards had not taken effective steps to prevent the discharge of effluents into the river Ganga.

Leather industry is one of the three major industries besides paper and textiles consuming large quantities of water for processing of hides and skins into leather. Naturally most of the water used is discharged as waste water. The waste water contains putrescible organic and toxic inorganic materials which when discharged as such will deplete dissolved oxygen content of the receiving water courses resulting in the drain of an aquatic life and emanating foul odour. Disposal of these untreated effluents on to land will pollute the ground water resources. Discharging of these effluents, without treatment into public sewers, results in the choking of sewers.

Realizing the importance of keeping the environment clean, the Government of India has enacted the Water Pollution Control Act (Central Act 6 of 1974) and almost all the State Governments have adopted the Act and implementing in their respective States. The Pollution Control Boards have been insisting that all industries have to treat their effluents to the prescribed Standards and leather industry is no exception to this rule.

Under the laws of the land the responsibility for treatment of the industrial effluents is that of the industry. While the concept of 'strict liability' should be adhered to in some cases, circumstances may require that plans for sewerage and treatment systems should consider industrial effluents as well. Clusters of small industries located in a contiguous area near the river bank and causing direct pollution to the river such as the tanneries in Jajmau in Kanpur is a case in point. In some cases, waste waters from some industrial units may have already been connected to the city sewer and, therefore, merits= treatment along with the sewage in the sewage treatment plant. It may also be necessary in some crowded areas to accept waste waters of industries in a city sewer to be fed to the treatment plant, provided the industrial waste is free from heavy metals, toxic chemicals and is not abnormally acidic or alkaline.

2.2 M.C. Mehta vs. Union of India (Mehta II-Municipality)

The court reproduced excerpts from the Uttar Pradesh Nagar Mahapalika Adhiniyam which applies to the municipalities of Kanpur, Allahabad, Varanasi, Agra and Lucknow. The excerpts list the following statutory duties of municipalities:

Treat and dispose of sewage, provide a safe water supply, protect water used for human consumption, provide for public sanitation and disposal of human wastes, dispose of dead animals, limit

agricultural operations, remove noxious weeds, abate public nuisances arising from tanks, and control disease. The court also cited the Uttar Pradesh Municipalities Act of 1916 and the Uttar Pradesh Water Supply and Sewerage Authority Act of 1975 which establish municipal statutory duties regarding the supply of water to cities and towns and the construction of sewerage systems.

It is unfortunate that although Parliament and the State Legislature have enacted the aforesaid laws imposing duties on the Central and State Boards and the municipalities for prevention and control of pollution of water, many of these provisions have just remained on paper without any adequate action being taken.

It is needless to say that in the tropical developing countries a large amount of misery, sickness and death due to infections arises out of water supplies.

The benefits which result from the preservation of water pollution include a general improvement in the standard of health of the population, the possibility of restoring stream waters to their original beneficial state and rendering them fit as sources of water supply, and the maintenance of clean and healthy surroundings which could then offer attractive recreational facilities. Such measures would also restore fish and other aquatic life.

Apart from its menace to health, polluted water considerably reduces the water resources of a nation, since the total amount of a country's utilizable water remains essentially the same and the demand for water is always increasing, schemes for prevention of water pollution should wherever possible, make the best use of treated waste water either in industry or agriculture. Very often such processes may also result in other benefits in addition to mere reuse. The application of effluents on agricultural land supplies not only much needed water to growing crops but also manorial ingredients. The recovery of commercially valuable ingredients during the treatment of industrial waste waters often yields by products which may to some extent offset the cost of treatment.

3. Conclusion

The crucial question is not whether developing countries can afford such measures for the controls of water pollution but it is whether they can afford to neglect them. The importance of the latter is emphasized by the fact that in the absence of adequate

measures for the prevention or control of water pollution, a nation would eventually be confronted with far more onerous burdens to secure wholesome and adequate supplies of water for different purposes. If developing countries embark on suitable pollution prevention policies during the initial stages of their industrialization, they can avoid the costly mistakes committed in the past by many developed countries. It is, however, unfortunate that the importance of controlling pollution is generally not realized until considerable damage has already been done.

Correspondence to:

Singhal, A.K.
Department of Law
Subharthi University, Meerut, Uttar Pradesh, India
Email: drashiah.singhal@gmail.com

References

- [1] <http://sankatmochan.tripod.com/GangaPollution.htm> accessed 18.05.2011.
- [2] Saxena KL, Chakraborty AK, Khan AQ, Chattopadhyay RN, Chandra H. Pollution study of river near Kanpur. *Indian Journal of Environment Health* 1966; 8: 270.
- [3] Chandra K. Pollution from wastes of industries manufacturing nitrogenous fertilizer. A case study from river Ganga near Allahabad. In: *Proceeding Symposium W.R.C.P.A. Roorkee. 11-23 December, 1981:141-151.*
- [4] Mehrotra MN. The role of sediments in environmental pollution: A case study of the Ganga at Varanasi. *Journal of the Indian Association of Sedimentologists* 1990; 9: 1-14.
- [5] M.C. Mehta vs. Union of India AIR. 1988. SC 1037.
- [6] Rosencranz. *Environmental Law and Policy in India.* 1992: 174.
- [7] Rosencranz A. The Current State of Environmental Litigation in India. <http://adwww2.americanbar.org/calendar/section-of-international-law-2011-spring-meeting/Documents/Thursday/Evolution%20of%20Environmental%20Rule%20of%20Law%20in%20China%20and%20India/The%20Current%20State%20of%20Environmental%20Litigation%20in%20India%203-4-11.pdf>, 2011.

01/02/2012