



THE PRECAUTIONARY PRINCIPLE IN ENVIRONMENTAL SCIENCE

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Abstract: The Precautionary Principle is a tool for making better health and environmental decisions. It aims to prevent harm from the outset rather than manage it after the fact. In common language, this means “better safe than sorry.” It is one of the important principles of Sustainable Development. Precautionary Principle denotes a duty to prevent harm, when it is within our power to do so, even when all the evidence is not in. In short, the “precautionary principle” is a notion which supports taking protective action before there is complete scientific proof of a risk; that is, action should not be delayed simply because full scientific information is lacking.

KEYWORDS- Precaution, Health, Sustainable development and action.

BASIC FEATURES OF PRECAUTIONARY PRINCIPLE: -

The Precautionary Principle represents a paradigm shift in decision-making. It allows for five key elements that can prevent irreversible damage to people and nature:

Anticipatory Action: There is a duty to take anticipatory action to prevent harm. Government, business, and community groups, as well as the general public, share this responsibility.

Right to Know: The community has a right to know complete and accurate information on potential human health and environmental impacts associated with the selection of products, services, operations, or plans. The burden to supply this information lies with the proponent, not with the general public.

Alternatives Assessment: An obligation exists to examine a full range of alternatives and select the alternative with the least potential impact on human health and the environment, including the alternative of doing nothing.

Full Cost Accounting: When evaluating potential alternatives, there is a duty to consider all the reasonably foreseeable costs, including raw materials, manufacturing, transportation, use, clean-up, eventual disposal, and health costs even if such costs are not reflected in the initial price. Short and long-term benefits and time thresholds should be considered when making decisions.

Participatory Decision Process: Decisions applying the Precautionary Principle must be transparent, participatory, and informed by the best available science and other relevant information.

ESSENTIALS INGREDIENTS OF PRECAUTIONARY PRINCIPLE-

- The government and the statutory authorities must anticipate, prevent and attack the causes of environmental degradation from the very root.
- Precautionary duties must be acted upon concern or potential risk of a mishap rather than waiting for the suspicion of concrete danger;
- If there is a threat of any serious or irreversible damage to the environment or a resource, lack of scientific certainty should not be used as an excuse to not act on the threat or postpone action regarding the implementation of measures to prevent any environmental damage.
- The 'Onus of Proof' is not on the petitioner, but rather the developer or owner of the industry/plant regarding their actions (individually or through the industry/plant) not causing environmental degradation.

CASELAW ON PRECAUTIONARY PRINCIPLE-**APPELLANT: Vellore Citizens Welfare Forums****RESPONDENT: Union of India rep. by its Secretary, Department of Environment and Others****BENCH: Justice Kuldip Singh, Justice Faizaan Uddin, Justice K. Venkata swami****COURT: Supreme Court****DECIDED ON: Apr-07-2016****Facts**

In the present case the Petitioner- Vellore Citizens Welfare Forum, filed a PIL under Article 32 of the Constitution. The Petition was filed against the water pollution caused due to excessive release of pollutants by the tanneries and other industries in the State of Tamil Nadu into the river Palar. Palar River was the main source of water for the livelihood of the surrounding people. Later, the Tamil Nadu Agricultural University Research Centre, Vellore discovered that approximately 35,000 hectares of agricultural land has turned either entirely or partially barren and not fit for cultivation. This is one of the landmark cases whereby the Supreme Court critically analysed the relationship between environment and industrial development.

Issue Raised

Whether the tanneries should be permitted to keep on working at the expense of the health of individuals and the environment?

Arguments from the Parties**Petitioner**

The Learned Counsel of the Petitioner argued that the whole surface and sub-soil water of river Palar has been intoxicated and as a result, it has turned out non-accessible for consumption to the inhabitants of the region. They further contended that the tanneries in the State of Tamil Nadu have caused serious damage to the environment in the region. A study conducted by a non-administrative association, covering 13 towns of Dindigul and Peddiar Chatham Panchayat Unions, uncovers that 350 wells out of an aggregate of 467 wells used for drinking and water system purposes have been contaminated.

Respondent

The advocates from the side of the tanneries argued that the quality concerning Total Dissolved Solids (TDS) fixed by the Board wasn't legitimized. This Court by the request dated April 9, 1996, coordinated the NEERI to examine this angle and offer its input. In its report, NEERI has legitimized the models stipulated by the Board. The Ministry of Environment and Forests has not completely set down models for inland surface water release for Total Dissolved Solids, sulphates, and chlorides. the selection on these guidelines' rests with the individual State Pollution Control Boards in line with the prerequisites supported nearby site conditions.

The rules stipulated by Tamil Nadu Pollution Board Control (TNPCB) have been advocated. The principle endorsed of the TNPCB for inland surface water release is met for tannery squander waters cost-viably through appropriate embed control gauges in tanning activity, and normally structured and viably worked wastewater treatment plants (ETPs and CETPs).

Judgement:

The Supreme Court after hearing both the parties and examining the report ruled making all efforts to maintain a harmony between environment and development. The Court observed that these Tanneries are the major foreign exchange earner to the country and also provide employment to several people. But at the same time, it harms the environment and poses a health hazard to everyone. The Court ruled in favour of Petitioners and directed all the Tanneries to deposit a sum of rupees ten thousand in the office of Collector as fine. The Court further directed the State of Tamil Nadu to award Mr M. C. Mehta with a sum of Rupees Fifty thousand as a token of appreciation towards his efforts in protecting the environment. The Hon'ble Supreme Court also made it a point to emphasize on the formation of green benches in dealing with matters related to the protection of the environment.

Sustainable Development Principle-

- The principle of sustainable development has been defined by the 1987 Brundtland Report as a development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- Sustainable development, as reflected in international agreements, encompasses at least three elements: (i) intergenerational equity (ii) sustainable use of natural resources (iii) integration of environment and development.

The "Polluter Pays" Principle-

- The "polluter pays" principle has been a dominant concept in environmental law. A state responsible for a violation of international law has to stop the injurious conduct which may be a cause for damage environment and revised the condition that existed prior to the wrongful conduct.
- According to this principle if the state cannot to re-establish the condition due to its impossibility, the state should pay compensation.

Sovereignty and Responsibility Principle-

- International environmental law has developed between two contradicting principles.
- First principle is that states' have sovereign rights over their natural resources.
- Second, states should not damage to the environment.
- However, the concept of sovereignty is not absolute, and state's general duty is not to cause environmental damage to the environment of other states.
- 1992 Rio Declaration stated that: "*states have, in accordance with principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction.*"

CONCLUSION-

The precautionary principle states that **if there is risk of severe damage to humans and/or the environment, absence of incontrovertible, conclusive, or definite scientific proof is not a reason for inaction.** It is a better-safe-than-sorry approach, in contrast with the traditional reactive wait-and-see approach to environmental protection.

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