



INTERNATIONAL JOURNAL OF HUMAN RIGHTS LAW REVIEW

An International Open Access Double Blind Peer Reviewed, Referred Journal

Volume 5 | Issue 3 | 2026

Art. 18

Environmental Constitutionalism in India: Analysing Indian Council for Enviro-Legal Action

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Recommended Citation

Somya Singh, *Environmental Constitutionalism in India: Analysing Indian Council for Enviro-Legal Action*, 5 IJHRLR 280-289 (2026).

Available at www.humanrightlawreview.in/current-issues/.

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Environmental Constitutionalism in India: Analysing Indian Council for Enviro-Legal Action

ABSTRACT

*The present case involves a catastrophic effect on the environment due to the discharge of untreated toxic and chemical effluents in nearby land and water bodies, resulting in soil infertility, groundwater contamination, and serious health hazards for residents from the chemical industries in Bichhri village, Rajasthan, which resulted in health-related problems to several individuals. The process of discharging chemical waste may have lasted several days, but the impact was deeply ingrained in people's minds. It marked the transformation in the sphere of Environmental Jurisprudence. The case was filed under Article 32 of the Constitution in the form of Public Interest Litigation for the enforcement of the Fundamental Right guaranteed under Article 21 of the Constitution, and it also raises the important contention regarding the operation of hazardous industries in densely populated areas and their irresponsibility in treating the toxic and industrial waste. The bone of contention in the present case was the stricter enforcement of environmental liabilities against industries that pollute the environment by discharging waste into water bodies. The court expanded the scope of Article 21 of the Constitution, affirming that the right to life includes the right to live in a safe and pollution-free environment. The court also affirmed the Doctrine of Absolute Liability, which holds that if industries or enterprises engage in inherently hazardous activities, they must be held liable without exception, as established in *M.C. Mehta v. Union of India*. This judgment not only strengthened Public Interest Litigation (PIL) in India but also provided a forum for the evolution of principles such as the Polluter Pays. This decision also boosted the concept of corporate accountability and the protection of environmental rights in India.*

KEYWORDS

Absolute Liability, Hazardous Industries, Environmental Jurisprudence, Public Interest Litigation (PIL), Sustainable Development, Article 21, Article 32, Corporate Accountability, Pollution-Free Environment, Environmental Protection, Environmental Restoration, chemical effluents.

CASE DETAILS

Particulars	Details
Judgment Cause Title	Indian Council for Enviro-Legal Action v. Union of India & Ors.
Case Number	Writ Petition (Civil) No. 967 of 1989
Judgment Date	13 February 1996
Court	Supreme Court of India
Quorum (Bench)	B.P. Jeevan Reddy, J.; B.N. Kirpal, J.
Author of the Judgment	B.P. Jeevan Reddy, J.
Citation	1996 AIR 1446; 1996 SCC (3) 212
Legal Provisions Involved	Article 21 & Article 32, Constitution of India; Environment (Protection) Act, 1986; Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981
Judgments Overruled	None
Related Law Subjects	Environmental Law; Constitutional Law; Polluter Pays Principle; Absolute Liability; Public Interest Litigation (PIL)

INTRODUCTION AND BACKGROUND OF THE JUDGEMENT

The ruling in this case signifies a breakthrough development in Indian environmental legal jurisprudence. The Supreme Court of India has recognized and firmly affirmed the Polluter Pays Principle and strengthened the doctrine of absolute liability for industries that operate dangerously and involve hazardous processes. The Court has also expanded the scope of Article 21 of the Constitution, stating that the Right to Life under Article 21 also includes the Right to a clean and safe, unpolluted environment. This case has also raised the level of environmental and corporate Social Responsibility and accountability in India.

The dispute commenced with the environmental devastation caused by the chemical factories in the village of Bichhri in the Udaipur District of Rajasthan.¹ The factories produced HCl, a highly dangerous chemical

¹ C. Okidi, "Indian Council for Enviro-legal Action and others (Petitioners) v. Union of

used in the manufacture of dyes. The local population, who were exposed to the chemicals, sustained injuries and other health complications. Highly Dangerous waste was carelessly and illegally dumped, and the earth, air, and water absorbed the waste. Contaminated water supplies resulted in the deterioration of the health of the local population. This made the land and water unusable for any purpose. In spite of existing environmental protection legislation, state authorities wilfully and deliberately failed to enforce it against the factories. For this period, the environment continued to be damaged uncontrollably. An environmental protection entity raised a concern regarding the unprotected ecological destruction, and in response, filed a Public Interest under Article 32 in the Supreme Court.²

FACTS OF THE CASE

The village of Bichhri, in Bichhri Udaipur District, Rajasthan, has experienced severe environmental damage caused by recently established chemical industries. These industries produce HCl, a chemical used in dyeing³ that is highly toxic and dangerous and can lead to adverse health problems. The production of H' acid creates many poisonous by-products and toxic waste containing extremely harmful chemicals. Instead of constructing treatment plants or adopting safe disposal methods, these industries discharge untreated or partially treated effluents directly into the environment. They have dumped chemical sludge in large, uncontrolled, and unregulated areas. The untreated toxic sludge gradually settles and is absorbed into the soil, eventually contaminating underground water and soil.

This process has led to serious groundwater contamination in and around the village. The village's drinking water supply was significantly reduced as wells became polluted. Because this contaminated water was used for drinking, residents fell ill, and their remaining water sources were depleted. The contaminated wells left local people without access to safe drinking water, and nearby farmland was also affected by toxic sludge.

In addition to the soil contamination and the cost of water, communities that use these polluted, unused wells, as well as those that drink from them, now face health problems. Furthermore, the use of untreated

India and others (Respondents)" I Compendium of Judicial Decisions on Matters Related to Environment 394 (1998).

² Indian Council for Enviro-Legal Action v. Union of India (1996), available at: <https://www.dhyeyalaw.in/indian-council-for-enviro-legal-action-v-onion-of-india-1996> (last visited Mar. 17, 2026).

³ *Indian Council for Enviro-Legal Action v. Union of India*, (2011) 8 SCC 161, available at: <https://www.alec.co.in/judgement-page/indian-council-for-enviro-legal-action-v-union-of-india-2011-8-scc-161> (last visited Mar. 17, 2026).

sludge has degraded fertile soil, making farming harder and worsening farmers' economic conditions. Due to pollution and the poor economic situation caused by contaminated crops, many farmers have lost their livelihoods.⁴

Environmental degradation has posed serious health risks. Villagers reported skin irritation, skin conditions, and other illnesses caused by drinking contaminated water and contact with polluted soil. Although no deaths have been reported, the impact on community health and the environment has been severe and long-lasting. The damage to the local environment is persistent. Despite existing laws such as the Environment (Protection) Act of 1986, the Water (Prevention and Control of Pollution) Act of 1974, and the Air (Prevention and Control of Pollution) Acts of 1981, enforcement gaps remain. The authorities have failed to act promptly and expeditiously to address these issues. The State Pollution Control Board and other regulatory agencies have been criticized for neglecting their duties and have faced widespread condemnation for their inaction.⁵

LEGAL ISSUES RAISED

- I. Whether or not this case attracted the principle derived from the *Rylands v. Fletcher* case, if not, which principle will be applied in ascertaining liabilities on wrongdoers?
- II. Whether or not industries took any protective or remedial measures for their actions?
- III. Are defendants legally liable to pay for the damages caused by their actions or compensate for the damages to the people affected⁶?

PETITIONER'S ARGUMENT

The petitioner, Indian Council for Enviro-Legal Action (ICLEA), is an environmental NGO that has approached the Supreme Court, under Article 32, for filing a Public Interest Litigation concerning the environmental destruction caused by the chemical industries at Bichhri village, Udaipur district, Rajasthan. The petitioner stated that H-acid-

⁴ Krati Singh Bhadouriya, "CASE COMMENT: INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION V. UNION OF INDIA, AIR 1996, 3 SCC 212" IV, *Indian Journal of Law and Legal Research* 633 (2022).

⁵ Case Summary: *Indian Council for Enviro-Legal Action v. Union of India & Ors.* (1996) | Coastal Regulation and Environmental Protection, available at: <https://www.legalbites.in/landmark-judgements/case-summary-indian-council-for-enviro-legal-action-v-union-of-india-ors-1996-coastal-regulation-and-environmental-protection-1072676> (last visited Mar. 17, 2026).

⁶ *Indian Council for Enviro-Legal Action v. Union of India*, AIR 1996 SC 1446; (1996) 3 SCC 212, available at: <https://indiankanoon.org/doc/1818014/> (last visited Mar. 18, 2026).

producing multiple hazardous chemical industries were discharging untreated hazardous waste, sludge, and effluents directly into land and water bodies, making them toxic. The area, which had been previously untreated, suffered severe soil and groundwater contamination. This created an environment in which agricultural land could not support crops, water sources were contaminated, and villagers were left with poor health and no means of earning a living⁷.

The petitioner further argued that the activities done by these industries constituted an egregious infringement of the right to life and the right to live in an environment that is not unclean or unsafe. The petitioner argued that the operation of such industries without sufficient protective measures is absolutely unacceptable. The petitioner argued that the industries that handle toxic chemicals should be made to pay compensation for the damage they cause. Petitioner made an argument based on the legal doctrine of the Polluter Pays (PPP) Principle, which states that the industries that cause environmental degradation should pay for all the costs of post-pollution clean-up, restoration of the environment, and the loss of community resources, including the settlement of eco-damages to the affected community (villagers)⁸. Hence, the petitioner urged the Court to order the harmful and polluting industries to cease their activities and undertake environmental restoration, including paying damages to people and their property.

RESPONDENT'S ARGUMENT

The respondents included the Union of India, the State Government authorities, and the perceived polluting industries. The industries countered the petitioner's allegations of environmental damage. They stated that they were operating under licenses and permissions from the relevant authorities and that they were complying with the law⁹. The respondents also stated that the petitioner's claims were not only legally but also factually incorrect and that the petitioner was overstating the extent of environmental damage. Several industries claimed that environmental damage was not solely caused by their own activities and that activities by other industries or even by nature may have contributed to the pollution.

⁷ Indian Council for Enviro-Legal Action v. Union of India and the Polluter Pays Principle: An Economic Analysis, *GNLU Journal of Law & Economics*, May 2025, available at: <https://gjele.in/2025/05/23/indian-council-for-enviro-legal-action-v-union-of-india-and-the-polluter-pay-principle-an-economic-analysis/> (last visited Mar. 18, 2026).

⁸ Indian Council for Enviro-Legal Action v. Union of India, *LawBhoomi*, Jan. 7, 2025, available at: <https://lawbhoomi.com/indian-council-for-enviro-legal-action-v-union-of-india/> (last visited Mar. 18, 2026).

⁹ Ibid.

Some other respondents noted that, if there were no legal restrictions and monitoring mechanisms governing these industries, the regulatory authorities would share some of the blame. Some industries responded that they had already taken measures to control pollution, and that some factories had been closed. For these reasons, respondents considered it unreasonable and even financially impossible to impose a greater economic burden than the courts had already imposed for the remediation and compensation of the injured ecosystem. They considered it unjust for industries to bear the burden of such a responsibility, especially when it was claimed that environmental responsibility was the result of governmental and regulatory indifference, and they were already paying the rehabilitation and resettlement costs to the affected party¹⁰.

RELATED LEGAL PROVISIONS

1. **Article 21¹¹ - Right to Life:** The Supreme Court interpreted Article 21 to include the right to a clean and healthy environment. Environmental pollution affecting water, air, and health is considered a violation of the right to life.
2. **Article 32¹² - Constitutional Remedies:** This provision allows individuals or organizations to approach the Supreme Court for the enforcement of fundamental rights.
3. **Article 48A¹³ - Protection of Environment:** Article 48A directs the State to protect and improve the environment and safeguard forests and wildlife.
4. **Article 51A(g)¹⁴ - Fundamental Duty:** This provision places a duty on every citizen to protect and improve the natural environment.
5. **Environment (Protection) Act, 1986:** This Act empowers the government to take measures for protecting and improving environmental quality. It regulates industrial activities and prohibits the discharge of harmful pollutants beyond prescribed limits.
6. **Water (Prevention and Control of Pollution) Act, 1974:** The Act aims to prevent and control water pollution and maintain the

¹⁰ Supra note 7

¹¹ The Constitution of India.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

purity of water sources. Industries must obtain permission from the Pollution Control Boards before discharging effluents.

PRECEDENTS ANALYSED BY THE COURT

1. **M.C. Mehta v. Union of India**¹⁵Regarding the application of the principle of absolute liability regarding the hazardous nature of the industries involved, the court held that the industries should pay the victims of the environmental damages without any exception.
2. **Rylands v. Fletcher**¹⁶The case established the principle of strict liability over the escape of dangerous substances from land. The Supreme Court referred to it to detail the development of liability principles in environmental law.
3. **Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh**¹⁷The court used this case to illustrate the reach of the judiciary to protect the environment from further harm, thereby gaining the attention of the public interest litigation.
4. **Subhash Kumar v. State of Bihar**¹⁸The court recognized the right to free access to clean water and air and determined that this right is subsumed within the fundamental right to life as stated in Article 21 of the Constitution. He justified the environmental injury suffered by the petitioner based on this principle.
5. **Vellore Citizens Welfare Forum v. Union of India**¹⁹The court recognized the application of the important environmental doctrines of sustainability and the Polluter Pays Principle to hold the polluting industries liable as a matter of practice.

JUDGMENT

Ratio Decidendi

The Supreme Court noted that the chemical industries in Bichhri village, Rajasthan, caused grave environmental harm by releasing untreated toxic waste into the soil and nearby water bodies, and therefore are responsible for the pollution. The Court remarked that such dangerous industrial activities have contaminated the groundwater, caused major soil damage, and significantly harmed the health and income of the

¹⁵ AIR 1987 SC 1086.

¹⁶ (1868) LR 3 HL 330.

¹⁷ AIR 1985 SC 652.

¹⁸ AIR 1991 SC 420.

¹⁹ AIR 1996 SC 2715.

village's residents. Hence, the Court ordered the offending industries to clean the environment and pay damages to the villagers²⁰. The verdict, in essence, invoked the Polluter Pays Principle, providing those industries undertaking hazardous work, in this case, have unqualified and unrestricted accountability for the harm caused to the environment and must undertake activities to restore it and end the state of ecological imbalance. The main legal principle concluded in this case is that industries that engage in hazardous activities have a per se liability²¹ to the environment and are responsible for restoration operations and for the damages resulting from their operations. The Court applied the Polluter Pays Principle, stating that the polluter must compensate for the damages and contribute to the cost of restoring the environment²².

Obiter Dicta

The Court has made other observations about the intersection of environmental safeguarding and constitutional duty. It stated that the right to a complete environment is part of the right to life as protected under Article 21 of the Constitution of India. It also noted that the Constitution allocates environmental protection and improvement to both the State and its citizens. This includes both Articles 48A and 51A(g). The Court also noted that the environment should be protected from damage and degradation while pursuing economic and industrial development. The court emphasized the need to protect natural resources for the benefit of present and future generations, as well as the need for improved, effective oversight of pollution-causing industries²³.

CONCLUSION & COMMENTS

The Supreme Court's ruling in this case is considered one of the most important milestones in the history of Environmental Law in India. The Court, for the first time, unconditionally stated that polluting chemical industries were liable for the environmental destruction in Bichhri village and ordered them to pay for the damage and compensate the villagers. For the first time in the Indian case law on the Polluter Pays Principle, the Court stated that for all the purposes of the principle, the polluting industry must be ordered to stop all its polluting activities and, in addition, be made to pay, in no small measure, for the restoration of

²⁰ Indian Council for Enviro-Legal Action v. Union of India (1996), *Scribd*, available at: <https://www.scribd.com/document/533783861/Indian-Council-for-Enviro> (last visited Mar. 18, 2026).

²¹ *Supra* note 5

²² Indian Enviro Legal Council v. Union of India: Analysis of Polluter Pays Principle, *iPleaders*, Dec. 19, 2020, available at: <https://blog.ipleaders.in/indian-enviro-legal-council-v-union-india-analysis-polluter-pays-principle/> (last visited Mar. 18, 2026).

²³ *Ibid*.

the economically and ecologically valuable damaged area. The Judgment reiterated the legal position that, under Article 21 of the Indian Constitution, the Right to Clean and Healthy Environment is an integral part of the Right to Life. The Supreme Court, in this Judgment, made it clear that economic or industrial development cannot be permitted to compromise the environment and community health.

The case significantly underscored the importance of environmental accountability and corporate Social responsibility in India. It showcased the judiciary's proactive stance on Public Interest Litigation concerning the environment and environmental degradation when administrative bodies fail to enforce environmental protection laws. The case broadened the applicability of critical environmental law principles in India, such as polluter pay and absolute liability, and integrated them into the framework of Indian environmental jurisprudence. Besides, the case underscored the importance of sustainable development, limiting industrial development to protect the environment for future generations. The case established a bold precedent on the liability of industries in India for environmental degradation, significantly advancing environmental judicial activism and governance.