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Original Research Paper Law

Prevention and Control of Atmospheric Pollution to Taj Mahal

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ABSTRACT In India, Taj Mahal is one of the world-famous monument and also declared as world Heritage site. Taj Mahal is not only an attraction to Indian tourists, but also extreme attraction to global tourist as well. Therefore, Taj Mahal generates huge amount of foreign exchange every year in India. The Taj Mahal was exposed to extreme atmospheric pollution in the city of Agra, because of functioning of various large and small scale industries. The honourable Supreme Court efficiently addressed this environmental pollution case and delivered excellent environmental Justice while issuing number of innovative directions to the governmental agencies. The present article aims to make an overview of the apex court's judgement in the light of prevention and control of atmospheric pollution of Taj Mahal.

KEYWORDS : air pollution, industrialisation, polluter pays principle, precautionary principle

INTRODUCTION

In the year 1996 a report was published by World Monument Fund, an American Express Co, which stated that the Taj Mahal being one of the seven wonders of the world has serious environmental issue and exposed to extreme atmospheric pollution. In the report, many reasons were cited, for example, the report says that there is lack of proper infrastructure for Urban development which can be witnessed from the poor management of transportation system, water supply and electricity generation. There is dense population around the Taj Mahal and the residential fuel combustion causing serious atmospheric pollution over the Taj trapezium. Few other sectors are also causing atmospheric pollution over Taj trapezium, for example, train running with diesel engine, running of buses including backup generators with their harmful atmospheric emission causing atmospheric pollution in the area of Taj Mahal. The nearby National Highway is covered with number of trucks which are plying while emitting poisonous gases in the atmosphere. Based on this report, it can be easily said that the famous monument like Taj Mahal and its beauty is a danger because of environmental deterioration.

FILING OF WRIT PETITION BEFORE THE SUPREME COURT

Mr MC Mehta, a public-spirited citizen, came to know about this environmental crisis at Taj trapezium and decided to filed a case, which is popularly known as the *Taj trapezium* case, before the honourable Supreme Court for seeking environmental justice to protect the Taj Mahal against this atmospheric pollution. The petitioner brought before the Supreme Court the critical issues of environmental crisis, for example, the petitioner mentioned that around the Taj Mahal, there are many hazardous chemical industries including foundries are functioning which are causing atmospheric pollution. Apart from that, there is huge emission of sulphur dioxide from the Mathura refinery. These all are the factors which are responsible for damaging the natural beauty and elegance of Taj Mahal. Moreover, there is occurrence of 'Acid Rain' in the Taj trapezium, that happens, when sulphur dioxide combined with oxygen and moisture, convert itself into sulphuric acid and this acid comes down in the form of rain over the Taj trapezium, damaging the white marble with the acidic effects, that is, corrosive effect. The petitioner mentioned that the white marble of the Taj Mahal has changed its colour into yellow associated with ugly brown and black spots. The decaying is more prominent inside the Taj Mahal, where even fungal deterioration can also be witnessed. Based on this finding, the petitioner prayed before the honourable Supreme Court that the Taj Mahal is of international repute and this is a monument which cannot be preserved in the present circumstances, where because of extreme atmospheric pollution the structure of the monument is in danger, therefore, the honourable court's intervention is necessary.

VARADHARAJAN COMMITTEE REPORT

In the year 1978, the Varadharajan Committee submitted its report on environmental impact because of establishment of Mathura refinery. In this report the committee recommended that the emission of sulphur dioxide from the Mathura refinery will affect the Agra city including Taj Mahal. The report suggests that the maximum atmospheric pollution will be caused because of coal-based industries, such as, thermal power plants including small-scale industries, for example, foundries, which are approximately 250 in numbers. Finally, the committee recommended for relocation of foundries.

In the year 1995, the Varadharajan Committee again provided various comprehensive suggestions for the improvement of environment and atmospheric quality in the Taj trapezium and devised plans for preservation of Taj Mahal. It is interesting to note that the committee further recommended for relocation of small-scale industries, particularly foundries.

THE NATIONAL ENVIRONMENTAL ENGINEERING RESEARCH INSTITUTE

The National Environmental Engineering Research Institute, submitted an overview report in the year 1990, which reveals that the suspended particles matters are very high in Taj trapezium, which consists of gaseous pollutants of acidic in nature, therefore, can cause serious harm to the marble of Taj Mahal. NEERI also pointed out that the main source of this atmospheric pollution in and around Taj, it is because of functioning of many medium and small scale industries. In the year 1993, NEERI recommended few solutions and pointed out that the industries which are functioning on burning of coal may replace the coal with natural gas, by doing that will reduce the atmospheric pollution significantly. In the recommendation, it was also pointed out that there should be setting up of hydro cracking unit to reduce the pollutant level in the emission. Since, sulphur dioxide emission was the sole reason for causing acid rain in Taj trapezium, therefore, it was recommended that there should be improved sulphur recovery unit to be installed to those industries which are emitting sulphur and there should be introduction of chemo-biochemical sulphur recovery unit as well. Moreover, the recommendation suggests for maintenance of green belt around the refinery. The recommendation further suggests that if the industries are not open to adopt natural gas instead of coal, then relocation is the only solution.

CENTRAL POLLUTION CONTROL BOARD REPORT

The central pollution control board submitted its report during the year 1981-82 and clearly mentioned that the Agra city and its region is very much open to harmful emission of air pollutant, thereby, causing serious atmospheric pollution in the area. The pollution control board stated that there are number of industries which are responsible for harmful emission of air pollutant in the area, for example, ferrous metal industry (foundries), Ferro alloy and

nonferrous casting industry, rubber processing industry, lime oxidation industry, engineering industry, chemical industries and brick kilns industry. The central pollution control board, therefore, based on the above observation recommended for the relocation of hazardous industries from the existing place to a new alternative land.

THE SUPREME COURT ON THE RELOCATION OF INDUSTRIES

The Apex Court reviewed the above-mentioned reports and found that to save the Taj from this extreme atmospheric pollution the only solution seems to be the relocation of rogue industries. Accordingly, the honourable Supreme Court, in the year 1994, directed the state government of Uttar Pradesh and the Uttar Pradesh state industrial development Corporation to find out a suitable site which not only would be efficient but sufficient to relocate the rogue industries. Once, the suitable site for relocation is earmarked by the Uttar Pradesh state industrial development Corporation, then it will be easy for passing orders by the state government while following the mandates of the directions of this court for relocation. Regarding, relocation of the industries, the honourable Supreme Court was agreeable with the various committee's report, as mentioned above that phase wise relocation will be the feasible option. Accordingly, the apex court directed the Uttar Pradesh state pollution control board to prepare the list of industries, who should be relocated in the first phase. The state pollution control board prepared a list of 510 industries for relocation in the first phase, however, the honourable Supreme Court after examining those industries finalised that only 292 industries, which are foundries, can be relocated in the first phase.

SUPREME COURT ON INTERNATIONAL ENVIRONMENTAL LAW PRINCIPLES

In order to fix the responsibility on polluting industries, in the year 1996, the honourable Supreme Court decided two very important cases related with environmental Justice delivery system. First, the *Vellore citizens welfare forum* case and the second, *Indian Council for Enviro legal* case.

The apex court, in *Vellore citizens* case made it a point that precautionary principle and polluter pays principle are essential features of sustainable development. In order to define the ambit of precautionary principle, the honourable Supreme Court clarified that there will be three essential characteristics of precautionary principle, for example, first, environmental measures shall be taken by the state or statutory authority, which means that such authority shall reasonably foresee the possible danger to environment, based on that prevent such action and shall attack all those causes which will be responsible for environmental degradation. Second, the government or the statutory authority shall not wait for scientific evidence, but take appropriate measures to protect the environment, if there is apprehension of irreparable damage to environment. Third, the burden of proof will be on the developer or the polluter.

The concept of polluter pays principle has been defined by the apex court in *Indian Council for Enviro legal* case, where the honourable Supreme Court stated that under this principle the polluter or developer is absolutely liable for causing harm to the environment and shall, not only bear the compensation to be paid to victims of such environmental degradation, but also bear the cost required for restoration of the damage environment. The apex court stated that remediation of damaged environment is the essential feature of sustainable development. Finally, the apex court stated that as per the provisions of Indian environmental legislations including provisions available in Articles 21, 48 A, 51 A (g) of Indian Constitution, it can be well said that precautionary principle and polluter pays principle are part of the law of the land.

DIRECTIONS OF THE COURT

Based on the analyses of international environmental law principles, it was easy for the apex court to issue comprehensive directions for the prevention and control of atmospheric pollution of Taj Mahal. The Supreme Court directed for the relocation of 292 industries, which will basically foundries. The apex court also directed that the industries willing to stay in the existing location must apply for natural gas connection from the gas authority of India Ltd. The industries willing to shift to a new location, the state government shall extend all cooperation to those industries. The industries neither willing to relocate themselves nor they will take natural gas connection, they should be closed down. Shifting bonus of one year wages shall be paid to those workers willing to shift along with shifting of the industries. The workmen not willing to shift or the workmen retrenched because of closer of the industry shall be entitled to have compensation of six years' wages along with other compensations as applicable. All the workmen shall be entitled to gratuity amount.

CONCLUSION

It is clear from the above discussion that the Taj Mahal was exposed to extreme atmospheric pollution and without the help of the petitioner and comprehensive directions issued by the honourable Supreme Court the prevention and control of atmospheric pollution of Taj Mahal could not have been possible. The apex court, not only critically examined the scope of the reports of various committees, which show extreme atmospheric pollution and affecting the existence of Taj Mahal, but also debated on international environmental law principles, for the application in environmental crisis in India. Phase wise relocation of the industries was accepted as main solution, however, full prevention of atmospheric pollution of Taj Mahal will be witnessed with the passage of time and how the directions of the honourable Supreme Court is carried on by the government agencies.

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