

## ENVIRONMENTAL LITIGATION

ENVIRONMENTAL AWARENESS came to India rather late. But environmental litigation is now catching up. Two recent decisions of the High Courts, which have not received much publicity, deserve notice. They illustrate a good as well as a bad feature of our public life. The good feature is new public awareness of rights, while the bad feature is the continuing apathy of public authorities whose slumber must, on occasions, need the coercive sanctions of the judicial process.

In a Bombay case,<sup>1</sup> the Citizens Action Committee, Nagpur, filed a petition against the State of Maharashtra and certain public authorities, complaining of the sad state of affairs with regard to roads and sanitation and public health in the city of Nagpur. Certain questions of jurisdiction and propriety with regard to the issue of writs were raised. The High Court took care to point out, that its extraordinary jurisdiction was exercised in such cases to compel statutory bodies, including the state, to stand by the citizen and discharge public duties. Furtherance of public interest was the sole touchstone for exercise of the jurisdiction. In the end, the High Court appointed an "Investigative and Remedial Measures Suggestive Committee" of five persons, comprising one leading public man, two doctors and two members of the Bar, to report to it within six months regarding remedial measures needed on the matters raised. One of the principles reaffirmed was that the statutory duty imposed upon a public utility concern is a public duty, compliance with which is enforceable by writ. Inevitably, the *Ratlam Municipality* case<sup>2</sup> was referred to. An earlier Bombay case,<sup>3</sup> (which also had arisen in Nagpur) on the subject of enforcement of public duty was also cited. The judgment is noteworthy as carrying further into the field of the environment the procedures, techniques and approaches recently evolved in public interest litigation.

Improvement of sanitation was achieved in a Gujarat case,<sup>4</sup> through litigation. Two persons belonging to the Chhara community, living in Chharanagar on the outskirts of the city of Ahmedabad, wrote to the High Court of Gujarat pointing out the absence of underground drainages in that locality—which is a part of Sardarnagar Municipality—an amenity extended to other areas of the municipality. The High Court granted temporary relief by an interim measure, passing orders against the municipality to make immediate arrangements by way of drainage of surface water. This

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1. *Citizens Action Committee v. Civil Surgeon, Mayo (General) Hospital, Nagpur*, A.I.R. 1986 Bom. 136.

2. *Municipal Council, Ratlam v. Vardhichand*, A.I.R. 1980 S.C. 1622.

3. *Corporation of the City of Nagpur v. The Nagpur Electric Light and Power Co. Ltd* A.I.R. 1958 Bom. 498.

4. *Janaki v. Sardarnagar Municipality*, A.I.R. 1986 Guj. 49.

interim order, the municipality carried out, but as regards permanent arrangements it pointed out that it needed funds and that funds earmarked for such purposes were in the hands of the state government. The High Court persuaded the government to provide the necessary funds. The court also expressed its appreciation of the attitude of the government in co-operating with the Sardarnagar Municipality to extend the much needed relief to residents of the area.

The litigation thus came to an end by settlement. But the episode illustrates what is a recurring feature of our public administration. Municipal authorities, even though aware of the urgency of remedying insanitary conditions keep quiet. Funds available and sanctioned for a specific purpose in the government remain unutilised.

Some persons then have to approach the courts, because no other alternative is left. Should not all this be avoided, by effective and timely action in all the offices? Why should citizens be forced to spend time and money in the pursuit of litigation which is avoidable? A part of the arrears in courts can be definitely attributed to official apathy in various spheres of administration.

Anyway, the attitude of the State Government of Gujarat is welcome, as there was an approach of warm co-operation, which successfully ended the litigation.

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