
A.P. POLLUTION CONTROL BOARD VS PROF. M.V. NAYUDU (RETD.)

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INTRODUCTION:

Water is universally recognized as a fundamental resource essential for life, health, and sustainable development. The United Nations has repeatedly emphasized that access to clean and safe water is not just a basic need but a human right that must be protected for present and future generations. In India, this principle gained strong legal backing through the landmark case *A.P. Pollution Control Board vs. M.V. Nayudu* (1999)¹, where the Supreme Court of India highlighted the need to prioritize environmental protection over unchecked industrialization. The judgment reinforced that safeguarding water sources is a constitutional responsibility, linking the right to clean water with the right to life under Article 21 of the Constitution of India.

BACKGROUND OF THE CASE:

Prof. M.V. Nayudu wanted to set up a vegetable oil plant near Hyderabad's drinking water lakes. The AP Pollution Control Board denied permission to protect water quality, and the Supreme Court upheld this, stressing the precautionary principle and the right to clean water.

FACT OF THE CASE:

- In this case, Prof. M.V. Nayudu, a retired professor, proposed to establish a vegetable oil manufacturing plant in Peddaspur village, Andhra Pradesh.
- The proposed site was located within 10 kilometers of the Himayat Sagar and Osman Sagar lakes, which supply drinking water to Hyderabad and Secunderabad.
- In 1988, the Ministry of Environment and Forests had classified the production of

¹ *A.P. Pollution control board vs Prof. M.V. Nayudu (Rtd.)* 1999 (2) SCC 71

vegetable oils as a potentially hazardous industrial activity due to possible environmental risks.

- The Andhra Pradesh government, recognizing the ecological sensitivity of the area, issued a notification in 1994 prohibiting industrial activities within 10 kilometers of these lakes to protect the quality of drinking water.
- Nayudu applied to the Andhra Pradesh Pollution Control Board (APPCB) for a No Objection Certificate (NOC) to construct and operate the plant despite the government notification.
- The APPCB examined the proposal and rejected the NOC application, citing the risk that the plant could pollute the lakes and endanger the drinking water supply for millions of residents.
- Nayudu challenged the APPCB's decision before the Appellate Authority under Section 28 of the Water (Prevention and Control of Pollution) Act, arguing that proper safeguards could prevent pollution; the Appellate Authority ruled in his favor.
- The APPCB, concerned about the broader environmental and public health implications, appealed the Appellate Authority's decision to the Supreme Court of India.
- The Supreme Court upheld the APPCB's rejection, emphasizing the precautionary principle, which allows preventive action in cases of potential environmental harm, and held that the burden of proof lies on the party proposing the industrial activity to show it will not cause pollution.
- The Court also recognized that the right to clean drinking water is part of the right to life under Article 21 of the Constitution, and concluded that protecting the lakes and public health outweighed the interests of establishing the industrial plant.

ISSUES OF THE CASE:

- Was the AP Pollution Control Board justified in rejecting the No Objection Certificate (NOC) for the vegetable oil plant near the drinking water lakes?

- Was the 10-kilometer restriction around Himayat Sagar and Osman Sagar lakes legally valid and constitutionally sound?
- Could the principle of promissory estoppel allow Nayudu to proceed despite the rejection of the NOC?
- Did establishing the plant violate the precautionary principle and the public's right to clean drinking water under Article 21?

ARGUMENTS:**Petitioner's Arguments:**

Setting up the oil plant near Himayat Sagar and Osman Sagar lakes would endanger Hyderabad's drinking water. The 10-kilometer restriction imposed by the state was legally valid and necessary to protect public health. Prior approvals or assurances could not override the statutory requirement of obtaining a No Objection Certificate. Industrial activity near sensitive water sources could cause irreversible harm. Preventive action was necessary under the precautionary principle.

They further contended that the public's right to clean drinking water under Article 21 must be protected. The Pollution Control Board has the authority to regulate polluting industries and restrict harmful activities. The Environment Protection Act allows limitations on industrial activity in ecologically sensitive areas. The 1994 government notification enforcing the 10-kilometer restriction was valid. Protecting public health and water sources outweighs any commercial interest in establishing the plant.

Respondent's Arguments:

The respondent argued that they had obtained prior approvals and started the project in good faith. They claimed that proper safeguards and modern technology would prevent any pollution. The 10-kilometer restriction should not be applied rigidly if the project posed no real threat. They contended that the principle of promissory estoppel should protect them from being stopped after starting work. The plant would contribute to industrial development and local employment without harming the environment.

They further argued that the Pollution Control Board's rejection was excessive and ignored the potential economic benefits. They maintained that the environmental impact would be minimal and manageable. They claimed that preventive measures could reduce any possible risk to water sources. The respondent emphasized that the right to carry on business is also important under the Constitution. They requested the court to allow the project while ensuring safety standards were followed.

RELATED PROVISION

Article 136 of the Constitution of India²

Special permission to appeal to the Supreme Court. The Andhra Pradesh Pollution Control Board invoked this article to challenge the decision of the Appellate Authority under Section 28 of the Water Act, seeking the Supreme Court's intervention.

Article 21 of the Constitution of India³

Right to life, interpreted to include the right to clean drinking water and a healthy environment. The Court emphasized that protecting public water sources is essential to safeguard this fundamental right.

Section 25(1) of the Water (Prevention and Control of Pollution) Act, 1974⁴

This section gives the Pollution Control Board the power to issue directions to any person, industry, or authority to prevent, control, or reduce pollution of water. In this case, it was argued that the Board had the authority to refuse the No Objection Certificate (NOC) for the plant because it could potentially pollute the Himayat Sagar and Osman Sagar lakes. The petitioner relied on this section to justify preventive action and ensure protection of the drinking water supply.

Section 25 of (Prevention and control of Pollution) Act, 1974⁵

Empowers the Board to issue directions to prevent or control water pollution. It allows

² *Constitution of India, 1950, art. 136*

³ *Constitution of India, 1950, art. 21*

⁴ *Water (Prevention and control of pollution) Act, 1974, s. 25(1)*

⁵ *Water (Prevention and control of Pollution) Act, 1974, s.25*

inspection, monitoring, and penalties for non-compliance.

Section 26 of Water (Prevention and Control of Pollution) Act, 1974⁶

No industry can operate or be established without the Board's consent. It ensures compliance with pollution control norms before starting.

Section 27 of Water (Prevention and Control of Pollution) Act, 1974⁷

Deals with granting or refusing consent to industries. The Board can impose conditions to prevent water pollution.

Section 28 of the Water (Prevention and Control of Pollution) Act, 1974⁸

It provides the appellate mechanism for challenging the decisions of the Pollution Control Board. In this case, the respondent (Nayudu) appealed the Board's rejection of the NOC before the Appellate Authority under Section 28. The Board contested this, arguing that the Appellate Authority could not override the Board's decision in matters affecting public health and water quality.

Section 3(3) of the Environment (Protection) Act, 1986⁹

This section empowers the Central Government to take measures necessary for protecting and improving the environment. In this case, it was argued that the government has the power to restrict or prohibit industries in ecologically sensitive zones, like the area around the drinking water lakes, to prevent environmental hazards. This provision supported the petitioner's claim that preventive measures must be taken to protect the lakes.

Section 5 of the Environment Protection Act, 1986¹⁰

Empowers the government to restrict industrial activity in sensitive areas. It allows prohibiting industries to protect the environment.

⁶ *Water (Prevention and Control of Pollution) Act, 1974, s.26*

⁷ *Water (Prevention and Control of Pollution) Act, 1974, s. 27*

⁸ *Water (Prevention and Control of Pollution) Act, 1974 s. 28*

⁹ *Environment (Protection) Act, 1986, s. 3(3)*

¹⁰ *Environment Protection Act, s. 5*

JUDGEMENT OF THE CASE

The Supreme Court upheld the Andhra Pradesh Pollution Control Board's rejection of the No Objection Certificate for the vegetable oil plant. The Court emphasized that the area around Himayat Sagar and Osman Sagar lakes was ecologically sensitive and crucial for Hyderabad's drinking water supply, and therefore strict restrictions were necessary. It held that the 10-kilometer restriction imposed by the state government was legally valid and constitutionally justified under Article 21¹¹, as the public's right to clean drinking water is an essential part of the right to life. The Court stressed that prior approvals or assurances given to the respondent could not override statutory obligations, and compliance with environmental laws must take precedence over individual or commercial interests.

The Court also highlighted the Importance of the precautionary principle, noting that even if safeguards were proposed, the risk of accidental pollution could not be ignored. It clarified that the Appellate Authority under Section 28¹² of the Water Act could not lightly overrule the Board's decision when public health and water security were at stake. The judgment reinforced that preventive action is necessary in ecologically sensitive areas, and the authorities have a duty to ensure that industrial development does not compromise environmental safety or the fundamental rights of the public. Consequently, the Court dismissed the appeal and upheld the rejection of the plant's NOC.

CONCLUSION

To sum up, I strongly support the decision in this case because it prioritizes the protection of water sources and the environment, which are vital for the health and well-being of people everywhere. I believe the judgment sends a clear message that industrial development must be balanced with ecological responsibility. Protecting drinking water and sensitive natural areas is not only crucial for local communities but also for ensuring sustainable living for people across the nation and around the world. In my view, such decisions are essential for promoting responsible development and preserving the environment for current and future generations.

¹¹ *Constitution of India 1950. Art. 21*

¹² *Water (Prevention and Control of Pollution) Act, 1974 s. 28*