

## M.C. Mehta v. State of Tamil Nadu and others

(1996) 6 SCC 756

### Background

This case arose out of a public interest litigation filed by M.C. Mehta in the Supreme Court of India under Article 32 of the Constitution of India, in respect of employment of children in the match industry in Sivakasi. Since the problem of child labour was rampant throughout the country, the court thought it appropriate to deal with the issue in a wider manner treating it as a national problem.

### Recommendations made by court-appointed committee

In the course of the hearing, the court appointed an advocates committee to visit the area and make a comprehensive report relating to the various aspects of the matter, as mentioned in the order of 14 August 1991. The committee was to consist of three advocates: Shri R.K. Jain, Ms Indira Jaisingh, and Shri K.C. Dua. The committee submitted its report on 11.11.91. The report contained many recommendations:

- a) The State of Tamil Nadu should be directed to ensure that children are not employed in fireworks factories.
- (b) The children employed in the match factories for packing must work in separate premises.
- (c) Employers should not be permitted make the children work for more than six hours a day.
- (d) Proper transport facilities should be provided by the employers and the state government.
- (e) Facilities for recreation and education should be provided in or around the factory.
- (f) Employers should make arrangements for providing basic diet to the children. In case they fail to do so, the government may be directed to provide for basic diet – the 'one meal a day' programme of the State of Tamil Nadu for school children may be extended to the child worker.
- (g) Piece-rate wages should be abolished and payment should be made on a monthly basis. Wage should be proportionate to the work done by the child.

(h) All workers working in the industry should be brought under the Insurance Scheme.

(i) For Sivakasi area, a committee should be headed by a retired High Court judge or a person of equal status along with two social workers, who should be answerable either to the Supreme Court or to the High Court. Employers of all the industries should be directed to deposit Rs 2 per month per worker towards a welfare fund, and the State should be directed to make a matching contribution.

(j) A National Commission for children's welfare should be set up to prepare a scheme for child labour abolition in a phased manner. It should be answerable to the Supreme Court and report its progress at periodical intervals to the Supreme Court.

### **Observations made by the Supreme Court**

The Supreme Court recognised that Sivakasi had ceased to be the only centre employing child labour; the malady was no longer confined to that place. The court also recognised that child labour was an all-pervasive national problem in India even after 50 years of independence – and despite the enactment of various legislations.

Further, the Supreme Court recognised poverty as a basic cause for child labour. The court observed that until an alternative income was assured to the family, child labour could never be effectively tackled.

### **Directions given by the Supreme Court**

To resolve the problem of child labour, the Supreme Court gave the following directions:

- Every state government must conduct a survey, to be completed within six months, on the types of child labour carried out in the state.
- The survey could begin with the modes of employment mentioned under Article 24 of the Constitution of India. The most hazardous employment would rank first in priority, to be followed by a comparatively less hazardous employment, and so on.

- To ensure compliance with Child Labour (Prohibition and Regulation) Act, 1986, an employer must be asked to pay a sum of Rs 20,000 as compensation for every child employed in contravention of the provisions of the Act.
- The employer would be liable to pay this amount even if he were to disengage the child presently employed.
- The inspectors, appointed under Section 17 of the Act, would bear the responsibility of ensuring this.
- The sum paid as compensation should be deposited in a fund to be known as Child Labour Rehabilitation-cum-Welfare Fund.
- Such a fund should be established district-wise or area-wise.
- The fund so generated should be used only for the concerned child. The income earned through the fund would also be a part of the fund. To generate greater income, the fund could be deposited in a high-yielding scheme of any nationalised bank or other public body.
- The State should ensure that an adult member of the family (whose name would be suggested by the parent/guardian of the concerned child) whose child is in employment in a factory or a mine or in other hazardous work gets a job anywhere, in lieu of the child.
- The employment could be combined with other assured employment as this would not require generation of much additional employment.
- The employment so given could be in the same industry where the child was employed or a public undertaking, and could be manual in nature. The undertaking chosen for employment shall be one that is nearest to the place of residence of the family.
- In those cases where it would not be possible to provide employment to the adult member, the appropriate government would deposit a sum of Rs 25,000 every month for each child employed in a factory, a mine, or any other hazardous employment, in the Child Labour Rehabilitation-cum-Welfare Fund.

- In case of obtaining employment for an adult, the parent/guardian shall have to withdraw their child from work. Even if no employment was provided, the parent/guardian shall have to see that the child is spared from the requirement to work, as an alternative source of income would have become available to him.
- The employment given or payment made would cease to be operative if the child is not sent by the parent/guardian for education.
- On discontinuation of the employment of the child, his education would be assured in a suitable institution. It would be the duty of the inspector to see to it that free and compulsory education up until the age of 14 is provided to the child.
- Penal provision contained in the Child Labour (Prohibition and Regulation) Act, 1986, would be used where employment of a child labour prohibited by the Act is found.
- Also, wherever child labour is employed in non-hazardous jobs (which is permissible under the Child Labour (Prohibition and Regulation) Act, 1986), the working hours of the child must not be more than four to six hours a day. Every child so employed must receive education for at least two hours each day. The entire cost of education must be borne by the employer. It would be the responsibility of the inspector to ensure this.
- **Monitoring Authorities**
  - The district collector would be responsible for monitoring the functioning of the inspectors.
  - In view of the magnitude of the task, a separate cell in the Labour Department of the appropriate government would be created.
  - The Secretary of the Labour Department would be responsible for monitoring the scheme.
  - Overall monitoring by the Ministry of Labour, Government of India, would be beneficial and worthwhile.