

**B.A.LL.B. VI SEMESTER**  
**SUBJECT: ENVIRONMENTAL LAW**  
**CODE: BL-6001**

**LAW Topic Name -POLLUTER PAYS**

**PRINCIPLE**

**GENERAL-** Polluter Pays Principles is a globally well recognized and a much celebrated environment law principal. There is no definition of the term of polluter pays principle similarly the scope of its application is also doubtful and there is lack of clear agreement on permissible expectation. The polluter pays principle is the commonly accepted practice that those who produce pollution should bear the cost of managing it to prevent damage to human health or the environment.

The Rio declaration adopted in in 1992 also recognised the polluter pays principles. According to principle 16 of the declaration National authorities should endeavour to promote the internalization of environmental cost and use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, weather due regard to the public interest and without distorting inter nation trade and investment

Thus the principal means-

1. The polluter should before the administration of the pollution control system
2. The pollutant should pay for the consequence of the pollution for example, compensation and clean- up.

**Case laws-**

**Indian Council for environmental legal action versus union of India 2011**

In case, the polluter pays principle was applied for the first time in India, the court tried to define the polluter pays principle and its scope.

Justice Dalveer Bhandari and justice H.L. Datta said, “ the polluter pays principle demand that the financial cost of preventing or remedying the damage caused by pollution should lie with the undertaking which cause the pollution or produce the good which cause the pollution

**Vellore citizens welfare forum vs union of India 1996**

In case the supreme court declared that the polluter pays principle is part of the environmental jurisprudence of India. The court held that the polluting tanneries were liable to pay for the past pollution generated by them.

The polyester Prince principal the court observed 'the polyester Prince principal as interpreted by this quote means that the absolute liability 4 harmful to the environment extend not only to compensate the victim of pollution.

### **M.C. Mehta Vs Kamal nath 1997**

This case also known as Span Motel Case the court opened that 'one who pollutes the environment must pay to reserve the damage caused by his act'

It was proved that the motel administration changed the course of the river in order to save the motel from future floods. The court held that the motel should pay compensation by way of cost for the restitution of the environment and ecology of the area.

### **M.C. Mehta Vs union of India 1987**

This case also known as drum gases leak case Shri Ram food and fertilizer is subsidiary of Delhi cloth mill limited was manufacturing caustic chlorine and oleum at a plant surrounded by physically polluted colonies

Environment list and lawyer, M.C. Mehta requesting the supreme court for the immediate closure and relocation of the industrial complex

On the 4th of December 1985, one month after the the petition was filed oleum head lead from the complex into the surrounding community resulting in one fertility and many injuries.

Justice P.N. Bhagwati writing for a constitution bench discuss the need for the development of the polluter pays principle in the Indian sustainable development.

The court also discussed the concept of strict liability and absolute liability citing the famous Rylands Vs fletcher case

**Conclusion** - with the rapid development of technology and industries environmental degradation is inevitable and dealing with it becomes vital for human existence. The problem escalates when economy aspects tu to dealing

with it become dominant and the polluters pay principle help in dealing with the later.

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