the present respondent. By the amendment in Section 11, insofar the cases where marriage can be declared as nullity, the application of the rule protecting the legitimacy was widened. If that had not been done, the children born of such marriages would have been deprived of the advantage on the death of either of the parents. By the simultaneous amendment of the two sections it can safely be deduced that the Parliament did not hold identical views as expressed by the Law Commission's Report.

10. Even if it be assumed that the meaning of the section was not free from ambiguity, the rule of beneficial construction is called for in ascertaining its meaning. The intention of the legislature in enacting Section 16 was to protect the legitimacy of the children who would have been legitimate if the Act had not been passed in 1955. There is no reason to interpret Section 11 in a manner which would narrow down its field. With respect to the nature of the proceeding, what the court has to do in an application under Section 11 is not to bring about any change in the marital status of the parties. The effect of granting a decree of nullity is to discover the flaw in the marriage at the time of its performance and accordingly to grant a decree declaring it to be void. We, therefore, hold that an application under Section 11 before its amendment in 1976, was maintainable at the instance of a party to the marriage even after the death of the other spouse. Accordingly, this appeal is dismissed with costs.

(1991) 1 Supreme Court Cases 588

(BEFORE RANGANATH MISRA, C.J. AND P.B. SAWANT AND K. RAMASWAMY, JJ.)

UNION OF INDIA AND OTHERS .. Appellants;

Versus

MOHD. RAMZAN KHAN .. Respondent.

Civil Appeal No. 571 of 1985† with Civil Appeals Nos. 5415, 5401, 5434 & 5419 of 1990 and 839 of 1988, 2581 of 1989, 1447 of 1988, 3480 of 1990, I.A. Nos. 1-3 in C.A. No. 90 of 1989, C.As. 1521 of 1982, 942 of 1989, 1508-09 of 1988, 2454-55 of 1982 and C.M.Ps. 5959-60 of 1988, decided on November 20, 1990

Constitution of India — Article 311(2) first proviso (after 42nd Amendment) — Held, delinquent employee entitled to copy of enquiry report submitted by Inquiry Officer to disciplinary authority and to make representation against it — Non furnishing of the report to the delinquent would be violative of principles of natural justice rendering the final order invalid — Rule to have prospective effect only — Rule inapplicable where the disciplinary authority itself is the inquiry officer — No discrimination involved thereby — Service

† From the Judgment and Order dated June 26, 1984 of the Jammu & Kashmir High Court in L.P.A. (Writ) No. 10 of 1983

Law — Departmental enquiry — CCS (CCA) Rules, 1965, Rule 14 — Jurisprudence — Prospective overruling

Administrative Law — Natural justice — In quasi-judicial proceedings, non supply of adverse material to the affected person but supply thereof to the anthority taking decision against him on that basis constitutes violation of rules of natural jnstice — Constitution of India, Articles 14 and 16

Administrative Law — Qnasi-judicial proceeding — What constitutes

Held :

The inquiry contemplated under Article 311(2) is a quasi-judicial one. There is a charge and a denial followed by an inquiry at which evidence is led and assessment of the material before conclusion is reached. These facets do make the matter quasi-judicial and attract the principles of natural justice. Supply of a copy of the inquiry report along with recommendation, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof. To have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done here which could be taken as keeping nature justice out of the proceedings. The Forty-second Amendment has not brought about any change in this position. (Paras 13 and 15)

Even though the second stage of the inquiry in Article 311(2) has been abolished by amendment, the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. In case his conclusions are kept away from the delinquent officer and the Inquiry Officer submits his conclusions with or without recommendation as to punishment, the delinquent is precluded from knowing the contents thereof although such material is used against him by the disciplinary authority. The report is an adverse material if the Inquiry Officer records a finding of guilt and proposes a punishment so far as the delinquent is concerned. In a quasi-judicial matter, if the delinquent is being deprived of knowledge of the material against him though the same is made available to the punishing authority in the matter of reaching its conclusion, rules of natural justice would be affected.

(Paras 13 and 15)

State of Gujarat v. *R.G. Teredesai,* (1969) 2 SCC 128: (1970) 1 SCR 251; *Uttar Pradesh Government* v. *Sabir Hussain,* (1975) 4 SCC 703: 1975 SCC (L&S) 401: 1975 Supp SCR 354; *Mazharul Islam Hashmi* v. *State of U.P.*, (1979) 4 SCC 537: 1980 SCC (L&S) 54, *relied on*

Wade : *Administrative Law, relied on*

Therefore, it must be held that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of

rules of natural justice and make the final order liable to challenge hereafter. (Para 18)

Khem Chand v. *Union of India*, AIR 1958 SC 300: 1958 SCR 1080: (1959) 1 LLJ 167; *R. Venkata Rao* v. *Secretary of State for India*, AIR 1937 PC 31: 64 IA 55; *High Commissioner for India* v. *I.M. Lall*, AIR 1948 PC 121: 75 IA 225; *Secretary of State for India* v. *I.M. Lall*, AIR 1945 FC 47: 1945 FCR 103; *State of Maharashtra* v. *Baishankar Avalram Joshi*, (1969) 1 SCC 804: (1969) 3 SCR 917; *Avtar Singh* v. *Inspector General*, 1968 SLR 131 (SC); *Union of India* v. *H.C. Goel*, AIR 1964 SC 364: (1964) 4 SCR 718: (1964) 1 LLJ 38, *referred to*

There is, however, no question of furnishing copy of any report to the delinquent where the disciplinary authority is himself the inquiry officer as in such case there is no report and the disciplinary authority becomes the first assessing authority to consider the evidence directly for finding out whether the delinquent is guilty and liable to be punished. Even otherwise, the inquiries which are directly handled by the disciplinary authority and those which are allowed to be handled by the Inquiry Officer can easily be classified into two separate groups — one, where there is no inquiry report on account of the fact that the disciplinary authority is the Inquiry Officer and inquiries where there is a report on account of the fact that an officer other than the disciplinary authority has been constituted as the Inquiry Officer. That itself would be a reasonable classification keeping away the application of Article 14. (Para 16)

Contrary conclusion, if any, reached by High Courts or any two Bench of the Supreme Court will no longer be taken to be laying down good law, but this ruling shall have prospective application and no punishment imposed shall be open to challenge on this ground. (Para 17)

R-M/TLC/10393/CLA

Advocates who appeared in this case :

N.S. Hegde and Arun Jaitley, Additional Solicitor General, R.B. Datar, Senior Advocate (Hemant Sharma, B.K. Prasad, Maninder Singh, Ms Indu Goswamy, A.M. Khanwilkar, P. Parmeshwaran, C.V.S. Rao, K.R.R. Pillai, Madan Lokur, Uma Datta, Vrinda Dhar, S.K. Agnihotri, T.V.S.N. Chari, M. Veerappa, K.R. Nagaraja, Ms M. Karanjawala, R.F. Nariman, Ms Urmila Sirur, Ms Rani Chhabra, R.N. Keshwani, Ms Sushma Suri and Diwan Balakram, Advocates, with him) for the appearing parties.

The Judgment of the Court was delivered by

RANGANATH MISRA, C.J.— Special leave granted in special leave petitions. All the civil appeals by special leave are heard together.

2. The short point that falls for determination in this bunch of appeals is as to whether with the alteration of the provisions of Article 311(2) under the Forty-second Amendment of the Constitution doing away with the opportunity of showing cause against the proposed punishment, the delinquent has lost his right to be entitled to a copy of the report of enquiry in the disciplinary proceedings.

3. Sub-article (2) of Article 311 in the original Constitution read thus:

> "311. (2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable

opportunity of showing cause against the action proposed to be taken in regard to him;"

The effect of this provision came to be considered by a Constitution Bench of this Court in *Khem Chand* v. *Union of India*[1]. The learned Chief Justice traced the history of the growth of the service jurisprudence relating to security of the civil service in the country beginning from the Government of India Act of 1915 followed by Section 240 of the Government of India Act of 1935. This Court on that occasion also noticed the judgments of the Privy Council in the cases of *R. Venkata Rao* v. *Secretary of State for India*[2], *High Commissioner for India* v. *I.M. Lall*[3] and the judgment of the Federal Court in *Secretary of State for India* v. *I.M. Lall*[4] and summed up the meaning of 'reasonable opportunity' thus: (SCR pp. 1096-97)

> "The reasonable opportunity envisaged by the provision under consideration includes—
>
> (*a*) An opportunity to deny his guilt and establish his innocence, which he can only do if he is told what the charges levelled against him are and the allegations on which such charges are based;
>
> (*b*) an opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself or any other witnesses in support of his defence; and finally
>
> (*c*) an opportunity to make his representation as to why the proposed punishment should not be inflicted on him, which he can only do if the competent authority, after the enquiry is over and after applying his mind to the gravity or otherwise of the charges proved against the government servant tentatively proposed to inflict one of the three punishments and communicates the same to the government servant."

4. The Fifteenth Amendment effective from October 6, 1963 brought about change in sub-article (2) which thereafter read as hereunder:

> "311. (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry."

1 1958 SCR 1080: AIR 1958 SC 300: (1959) 1 LLJ 167
2 64 IA 55: AIR 1937 PC 31
3 75 IA 225: AIR 1948 PC 121
4 1945 FCR 103: AIR 1945 FC 47

5. After the amendment this Court decided a series of cases wherein it indicated that a failure to furnish a copy of the report of the Inquiry Officer would result in violation of the guarantee of reasonable opportunity: *State of Maharashtra* v. *Baishankar Avalram Joshi*[5]; *Avtar Singh* v. *Inspector General*[6].

6. A Constitution Bench in *Union of India* v. *H.C. Goel*[7] proceeded to say: (SCR pp. 723-25)

> "Article 311 consists of two sub-articles and their effect is no longer in doubt. The question about the safeguards provided to the public servants in the matter of their dismissal, removal or reduction in rank by the constitutional provision contained in Article 311, has been examined by this Court on several occasions. It is now well settled that a public servant who is entitled to the protection of Article 311 must get two opportunities to defend himself. He must have a clear notice of the charge which he is called upon to meet before the departmental enquiry commences, and after he gets such notice and is given the opportunity to offer his explanation, the enquiry must be conducted according to the rules and consistently with the requirements of natural justice. At the end of the enquiry, the enquiry officer appreciates the evidence, records his conclusions and submits his report to the government concerned. That is the first stage of the enquiry, and this stage can validly begin only after charge has been served on the delinquent public servant.
>
> After the report is received by the government, the government is entitled to consider the report and the evidence led against the delinquent public servant. The government may agree with the report or may differ, either wholly or partially, from the conclusions recorded in the report. If the report makes findings in favour of the public servant, and the government agree with the said findings, nothing more remains to be done, and the public servant who may have been suspended is entitled to reinstatement and consequential reliefs. If the report makes findings in favour of the public servant and the government disagree with the said findings and holds that the charges framed against the public servant are prima facie proved, the government should decide provisionally what punishment should be imposed on the public servant and proceed to issue a second notice against him in that behalf. If the enquiry officer makes findings, some of which are in favour of the public servant and some against him, the government is entitled to consider the whole matter and if it holds that some or all the charges framed against the public servant are, in its opinion, prima facie established against him, then also the government has to decide provisionally

5 (1969) 1 SCC 804: (1969) 3 SCR 917
6 1968 SLR 131 (SC)
7 (1964) 4 SCR 718: AIR 1964 SC 364: (1964) 1 LLJ 38

what punishment should be imposed on the public servant and give him notice accordingly. It would thus be seen that the object of the second notice is to enable the public servant to satisfy the government on both the counts, one that he is innocent of the charges framed against him and the other that even if the charges are held proved against him, the punishment proposed to be inflicted upon him is unduly severe. This position under Article 311 of the Constitution is substantially similar to the position which governed the public servants under Section 240 of the Government of India Act, 1935."

7. Then came the Forty-second Amendment of the Constitution under which the sub-article (2) was substantially altered. As amended in 1976 the sub-article now reads:

> "311. (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.
>
> Provided that where it is proposed, after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:"

In terms, the omission of the words 'and where it is proposed, after such inquiry, to impose on him any other penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry' as also the proviso clearly omit the second part of the inquiry as envisaged in *Goel case*[7] and the concept of 'reasonable opportunity' is satisfied by the delinquent being informed of the charges and of being heard in respect thereof.

8. We may now refer to the rules relating to disciplinary inquiry against government servants. The Central Civil Services (Classification, Control and Appeal) Rules in force are of 1965. In the States they have their own rules but the rules whether of the Centre or of the States have adopted a common pattern. In respect of major penalties the procedure in the Rules (see Rule 14) seems to be that the disciplinary authority may himself hold the inquiry into the charges or he may appoint an Inquiry Officer who would conduct the inquiry and submit the proceedings of enquiry to the disciplinary authority for being finalised. When the disciplinary authority himself inquires into the charges there is no occasion for submission of an inquiry report. The entire evidence — oral and documentary — along with submissions, if any, are available to him to proceed to arrive at final conclusions in the inquiry. Where, however, the

disciplinary authority delegates the inquiry to another, such Inquiry Officer may furnish a report on the basis of the evidence recorded by him and in some cases the Inquiry Officer even recommends the punishment to be imposed. In cases where the Inquiry Officer merely transmits the records of inquiry proceedings to the disciplinary authority there is indeed no distinction to be drawn between the inquiry conducted by the disciplinary authority himself or the inquiry officer. This is so on account of the fact that there is no further material added to the record at the time of transmission to the disciplinary authority.

9. Where, however, the Inquiry Officer furnishes a report with or without proposal of punishment the report of the Inquiry Officer does constitute an additional material which would be taken into account by the disciplinary authority in dealing with the matter. In cases where punishment is proposed there is an assessment of the material and a tentative conclusion is reached for consideration of the disciplinary authority and that action is one where the prejudicial material against the delinquent is all the more pronounced.

10. A three Judge bench of this Court in *State of Gujarat* v. *R.G. Teredesai*[8] has indicated that the Inquiry Officer was under no obligation or duty to make any recommendations in the matter of punishment to be imposed on the government servant against whom the departmental inquiry is held and his function merely is to conduct the inquiry in accordance with law and to submit the record along with the findings or conclusions on the delinquent servant. But if the Inquiry Officer has also made recommendations in the matter of punishment, that is likely to affect the mind of the punishing authority with regard to penalty or punishment to be imposed on such officer which must be disclosed to the delinquent officer. Since such recommendation forms part of the record and constitutes appropriate material for consideration of the government, it would be essential that that material should not be withheld from him so that he could while showing cause against the proposed punishment make a proper representation. The entire object of supplying a copy of the report of the Inquiry Officer is to enable the delinquent officer to satisfy the punishing authority that he is innocent of the charges framed against him and that even if the charges are held to have been proved the punishment proposed to be inflicted is unduly severe. At p. 254 of the reports Grover, J. speaking for this Court stated: (SCC p. 131, para 5)

> "The requirement of a reasonable opportunity, therefore, would not be satisfied unless the entire report of the Enquiry Officer including his views in the matter of punishment are disclosed to the delinquent servant."

8 (1969) 2 SCC 128: (1970) 1 SCR 251

Another three Judge bench decision of this Court is that of *Uttar Pradesh Government* v. *Sabir Hussain*[9] where this Court held: (SCC p. 708, para 16)

> "In view of these stark facts the High Court was right in holding that the plaintiff (respondent) was not given a reasonable opportunity to show cause against the action proposed to be taken against him and that the non-supply of the copies of the material documents had caused serious prejudice to him in making a proper representation."

11. The question which has now to be answered is whether the Forty-second Amendment has brought about any change in the position in the matter of supply of a copy of the report and the effect of non-supply thereof on the punishment imposed.

12. We have already noticed the position that the Forty-second Amendment has deleted the second stage of the inquiry which would commence with the service of a notice proposing one of the three punishments mentioned in Article 311(1) and the delinquent officer would represent against the same and on the basis of such representation and/or oral hearing granted the disciplinary authority decides about the punishment. Deletion of this part from the concept of reasonable opportunity in Article 311(2), in our opinion, does not bring about any material change in regard to requiring the copy of the report to be provided to the delinquent.

13. Several pronouncements of this Court dealing with Article 311(2) of the Constitution have laid down the test of natural justice in the matter of meeting the charges. This Court on one occasion has stated that two phases of the inquiry contemplated under Article 311(2) prior to the Forty-second Amendment were judicial. That perhaps was a little stretching the position. Even if it does not become a judicial proceeding, there can be no dispute that it is a quasi-judicial one. There is a charge and a denial followed by an inquiry at which evidence is led and assessment of the material before conclusion is reached. These facets do make the matter quasi-judicial and attract the principles of natural justice. As this Court rightly pointed out in the *Gujarat case*[8], the disciplinary authority is very often influenced by the conclusions of the Inquiry Officer and even by the recommendations relating to the nature of punishment to be inflicted. With the Forty-second Amendment, the delinquent officer is not associated with the disciplinary inquiry beyond the recording of evidence and the submissions made on the basis of the material to assist the Inquiry Officer to come to his conclusions. In case his conclusions are kept away from the delinquent officer and the Inquiry Officer submits his conclusions with or without recommendation as to

9 (1975) 4 SCC 703: 1975 SCC (L & S) 401: 1975 Supp SCR 354

punishment, the delinquent is precluded from knowing the contents thereof although such material is used against him by the disciplinary authority. The report is an adverse material if the Inquiry Officer records a finding of guilt and proposes a punishment so far as the delinquent is concerned. In a quasi-judicial matter, if the delinquent is being deprived of knowledge of the material against him though the same is made available to the punishing authority in the matter of reaching his conclusion, rules of natural justice would be affected. Prof. Wade has pointed out:[10]

> "The concept of natural justice has existed for many centuries and it has crystallised into two rules: that no man should be judge in his own cause; and that no man should suffer without first being given a fair hearing.... They (the courts) have been developing and extending the principles of natural justice so as to build up a kind of code of fair administrative procedure, to be obeyed by authorities of all kinds. They have done this once again, by assuming that Parliament always intends powers to be exercised fairly."

14. This Court in *Mazharul Islam Hashmi* v. *State of U.P.*[11] pointed out:

> "Every person must know what he is to meet and he must have opportunity of meeting that case. The legislature, however, can exclude operation of these principles expressly or implicitly. But in the absence of any such exclusion, the principle of natural justice will have to be proved."

15. Deletion of the second opportunity from the scheme of Article 311(2) of the Constitution has nothing to do with providing of a copy of the report to the delinquent in the matter of making his representation. Even though the second stage of the inquiry in Article 311(2) has been abolished by amendment, the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done here which could be taken as keeping natural justice out of the proceedings and the series of pronouncements of this Court making rules of natural justice applicable to such an inquiry are not affected by the Forty-second Amendment. We, therefore, come to the conclusion that supply of a copy of the inquiry

10 *Administrative Law*, 6th edn., p. 10
11 (1979) 4 SCC 537: 1980 SCC (L&S) 54

report along with recommendation, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof. The Forty-second Amendment has not brought about any change in this position.

16. At the hearing some argument had been advanced on the basis of Article 14 of the Constitution, namely, that in one set of cases arising out of disciplinary proceedings furnishing of the copy of the inquiry report would be insisted upon while in the other it would not be. This argument has no foundation inasmuch as where the disciplinary authority is the Inquiry Officer there is no report. He becomes the first assessing authority to consider the evidence directly for finding out whether the delinquent is guilty and liable to be punished. Even otherwise, the inquiries which are directly handled by the disciplinary authority and those which are allowed to be handled by the Inquiry Officer can easily be classified into two separate groups — one, where there is no inquiry report on account of the fact that the disciplinary authority is the Inquiry Officer and inquiries where there is a report on account of the fact that an officer other than the disciplinary authority has been constituted as the Inquiry Officer. That itself would be a reasonable classification keeping away the application of Article 14 of the Constitution.

17. There have been several decisions in different High Courts which, following the Forty-second Amendment, have taken the view that it is no longer necessary to furnish a copy of the inquiry report to delinquent officers. Even on some occasions this Court has taken that view. Since we have reached a different conclusion the judgments in the different High Courts taking the contrary view must be taken to be no longer laying down good law. We have not been shown any decision of a coordinate or a larger bench of this Court taking this view. Therefore, the conclusion to the contrary reached by any two Judge bench in this Court will also no longer be taken to be laying down good law, but this shall have prospective application and no punishment imposed shall be open to challenge on this ground.

18. We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter.

19. On the basis of this conclusion, the appeals are dismissed and the disciplinary action in every case is set aside. There shall be no order for

costs. We would clarify that this decision may not preclude the disciplinary authority from revising the proceeding and continuing with it in accordance with law from the stage of supply of the inquiry report in cases where dismissal or removal was the punishment.

(1991) 1 Supreme Court Cases 598

(BEFORE K.N. SINGH AND N.D. OJHA, JJ.)

SUBHASH KUMAR .. Petitioner;

Versus

STATE OF BIHAR AND OTHERS .. Respondents.

Writ Petition (Civil) No. 381 of 1988, decided on January 9, 1991

Constitution of India — Article 21 — Right to pollution free water and air for full enjoyment of life, held, covered by Article 21

Constitution of India — Articles 32 and 21 — Public interest litigation against water or air pollution maintainable

Constitution of India — Article 32 — Public interest litigation — Petition in personal interest or to satisfy any grudge or enmity cannot be initiated in the garb of public interest litigation — On facts, writ petition being in personal interest, dismissed with costs

A petition under Article 32 by way of public interest litigation was filed seeking a writ or direction preventing alleged pollution of the Bokaro river water from the sludge/slurry discharged from the washeries of the Tata Iron and Steel Co. Ltd. However, on a perusal of the counter affidavit filed on behalf of Directors of Collieries and TISCO it appeared that the petitioner, an influential businessman, had been purchasing slurry from them for last several years but when the respondent company refused to succumb to the petitioner's pressure of supplying more quantity of slurry he removed the company's slurry in an unauthorised manner and also initiated several proceedings before High Court under Article 226. There was intrinsic evidence in the petition itself that the primary purpose of filing this petition is not to serve any public interest; instead it is in self-interest as would be clear from the prayer made by the petitioner in the interim stay application for permitting him to arrest/collect sludge/slurry flowing out of the washeries and for a direction to the State of Bihar, its officers and other authorities for not preventing him from collecting the sludge/slurry and transporting the same. Dismissing the petition the Supreme Court

Held:

Right to live is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Article 32 for removing the pollution of water or air which may be detrimental to the quality of life. A petition under Article 32 for the prevention of pollution is maintainable at the instance of affected persons or even by a group of social workers or journalists. (Para 7)