

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Resurfacing of Cataclysmic Smoke: A Cue to Take Time by the Forelock

CHAHAT¹

ABSTRACT

Amidst the chaos created by Covid-19, residents of RR Venkatapuram, Vizag witnessed another tragedy on 7th May, 2020 in the form of a pernicious smoke, leaked from a nearby situated LG Polymer Plant. The deadly fumes of styrene monomer vapour inhaled by the inhabitants took 12 lives and left several injured. The resurfacing of yet another gas leak incident costing human lives inevitably puts one in mind of the deadliest Bhopal Gas Disaster. After that tragedy, we introduced a score of legislations to avoid such disasters in future and also transmogrified the principle of Strict Liability into Absolute Liability in case of hazardous industries to create a deterrent effect. Yet here we are witnessing derisory change in the situation with number of gas leak incidents occurring every now and then. In order to dig out the root cause of such incidents Researcher in this Research Paper dwells into the aftermath of Bhopal Gas Tragedy and its relevance in today's scenario. The paper focuses on the need and significance of principle of Absolute liability. The Researcher in this Paper also keenly studies how the Rules, Regulations and Principle of Natural Justice are casually flouted by the authorities when they have their own axe to grind in the matter at hand.

Keywords: *Tragedy, Leak, Liability, Industries, Authorities etc.*

“History doesn't repeat itself, but it often rhymes.”

- Mark Twain

I. PROLOGUE

To quote Mark Twain seems appropriate as the tragic events transpired at the LG Polymers industry at Vizag killing 12 innocent lives and shattering lives of many others. The horrendous incident instinctively puts one in mind of the ghastly catastrophe which affected and even today is affecting millions of innocents due to negligence of Union Carbide Corporation.

The dreadful eventuality that baffled everyone in the wee hours of 7th May, 2020 in the streets of RR Venkatapuram, Vizag occurred because the baneful Styrene gas exuded from a LG

¹ Author is a Research Scholar at Guru Nanak Dev University, Regional Campus, Jalandhar, India.

Polymer plant situated nearby which was taken over by the South Korean electronics Giant's subsidiary from the quondam Hindustan Polymers in the year 1997.

Apparently, the leakage occurred from one of the storage tanks. The plant was locked since last 43 days as per the lockdown and ostensibly it was going to be reopened when the incident took place.² The Andhra Pradesh Forensic Science Laboratory in its initial findings divulged that the occurrence of this horrendous event owes to the human error as the storage container's temperature which contained the pernicious gas i.e. styrene must be below 20 degree Celsius but it was not maintained so, which led to the catastrophe.³

The brutal incident took at least 12 lives and injured many. As per Public Health experts the effects of Styrene Gas on health of people, flora and fauna can be confirmed only after long term study.⁴

The Chemical industries in our Nation have grown by leaps and bound in the past four decades and along with the growth, the odds of such disasters have also increased many folds. The Vizag disaster is a reminder that we have not done anything up to the mark since the Bhopal Gas Tragedy. It has been more than 3 decades since the disaster yet our conditions are deplorable.

According to the National Disaster Management Authority (NDMA), there are numerous factories registered with the government as hazardous. Several unorganised sectors all across the nation deal with hazardous substances. The data itself shows the high probability of chemical disasters in our country.⁵

Although after Bhopal Gas Leak case, the government adopted a score of legislations to curb such cases in future yet the ground reality doesn't seem to be much changed.

In 2014, at Nagaram, Andhra Pradesh, a Brobdingnagian fire erupted due to an explosion in the subterranean gas conduit under the control of GAIL i.e. Gas Authority of India which killed at least 22 people and left many injured.⁶ Even more disturbing fact in this case was that the

² Utpal Bhaskar, LG Polymers admits leaking vapour from gas storage tank caused Vizag Tragedy, Livemint (09-05-2020) <https://www.livemint.com/news/india/lg-polymers-admits-leaking-vapor-from-gas-storage-tank-cause-d-vizag-tragedy-11589009346537.html>.

³ U Sudhakar Reddy, Human error, Negligence led to Vizag Gas Leak: Forensic Report, The Times of India (11-05-2020) <https://timesofindia.indiatimes.com/india/human-error-negligence-led-to-vizag-gas-leak-forensic-report/articleshow/75666352.cms>.

⁴ Manish Kumar, Years of Neglect Led to Vizag Gas Tragedy, (20-05-2020) <https://india.mongabay.com/2020/05/years-of-neglect-led-to-vizag-gas-tragedy/>.

⁵ Explained Desk, Explained: What are the safeguards against chemical disasters in India?, THE INDIAN EXPRESS (09-05-2020), <https://indianexpress.com/article/explained/vizag-gas-leak-bhopal-tragedy-india-chemical-disasters-laws-6398912/>.

⁶ Anonymous, GAIL Pipeline blast took place due to collective system failure: Probe Report, Firstpost (10-09-2014) <https://www.firstpost.com/india/gail-pipeline-blast-took-place-due-collective-system-failure-probe-report->

villagers had communicated about the gas leak to the authorities yet no action was taken to resolve the issue showing lack of prudence and fear of law.

In the same June of 2014, Durg, Chhatisgarh's Bhilai Steel Plant witnessed another catastrophic leakage of Methane Gas from the pipeline at a water pump house. This accident took 6 innocent lives.

In 2017, the National Capital saw its 487 innocent school children and inhabitants of a colony in Tughlaqabad area being admitted to hospitals for inhaling toxic smoke unfurled from a from a container depot spotted nearby.⁷

In 2018, Bhilai Steel Plant of State owned SAIL became testimony to a blast which occurred after a fire flared up in a gas conveyor while its maintenance work was being done. The nine victims died on spot and more than 14 were injured.⁸

These are just few of the incidents. There are more than 130 significant chemical accidents that have been reported in the country in the recent past which killed more than 250 people and injured more than 500.⁹ This bitter reality shows us that if we want to save innocent lives from being brutally killed then we need to take time by the forelock and take stringent actions against the perpetrators.

II. LEGISLATIVE MEASURES TO PREVENT CHEMICAL DISASTERS:

Before 1984, the only legislation dealing with such accidents was Indian Penal Code which provided for criminal liability in such cases. There was no separate legislation to deal with such Disasters.

In 1984, on the fateful night of 02-03 December, tons of Methyl Iso-cynate (MIC) gas spurted from the UCIL Plant into the air and brought upheaval in the lives of inhabitants of Bhopal. Owing to strong gale, the toxic smoke travelled all across the peripheries of the City and took around 2600 innocent lives straight away and the number increased to 8000 within a fortnight. More than 6 lacs were injured and more than 20 thousand were dead as per the later estimates.

1706149.html.

⁷ Somreet Bhattacharya and Kritika Sharma, Chemical Leak in Delhi Lands 487, including school kids in hospital, *The Times of India* (07-05-2017) <https://timesofindia.indiatimes.com/city/delhi/chemical-leak-in-delhi-lands-487-including-school-kids-in-hospital/articleshow/58555132.cms>.

⁸ Shylaja Verma, 9 Dead, 14 Injured in GAS Pipeline Blast At Bhilai Steel Plant, *NDTV* (09-10-2018) <https://www.ndtv.com/india-news/6-dead-14-injured-in-a-gas-pipeline-blast-at-bhilai-steel-plant-in-chhattisgarh-1929140>.

⁹ Explained Desk, Explained: What are the safeguards against chemical disasters in India?, *THE INDIAN EXPRESS* (09-05-2020) <https://indianexpress.com/article/explained/vizag-gas-leak-bhopal-tragedy-india-chemical-disaster-s-laws-6398912/>.

Even the babies in the womb were affected.¹⁰

At that point of time there was no specific law to reduce miseries of such a large number of people at once. To become voice to the needy and to give speedy Justice Union of India passed **The Bhopal Act, 1985**¹¹.

Under this new Act, Indian Government became Prosecutors on behalf of the sufferers by the dint of Doctrine of Parens Patriae.¹²

In the year of 1986, parliament enacted **The Environment Protection Act, 1986**, to create a comprehensive law with regard to environmental protection by including the subjects untouched by previous laws. It also provides for delegated legislation on regulation of hazardous substances. The act provides deterrent punishment to the violators of law.¹³

In 1991, the parliament enacted **The Public Liability Insurance Act, 1991**, in order to have provision for instantaneous aid to the victims of hazardous accidents and for other collateral matters.¹⁴

In 1997, **The National Environment Appellate Authority Act, 1997**, was enacted to constitute National Environment Appellate Authority. The appellate authority is empowered to decide appeals emerging from the decisions with regard to curtailment of locality where the industrial operations shall or shall not be executed.

In 2010, **National Green Tribunal** was constituted by the government to provide for speedy and effective disposal of cases. As per this Act, the cases relating to environment protection and conservation of forests will be dealt by NGT and the cases like Bhopal Gas Tragedy will also be dealt by the Tribunal.¹⁵

Apart from Criminal liability, such accidents are covered under Law of Torts which means Civil Wrong. The civil liability of the companies in such cases is determined by the principle of Strict or Absolute Liability.

III. STRICT LIABILITY VIS-A-VIS ABSOLUTE LIABILITY

In 1868, the House of Lords recognised 'No Fault Liability' for the first time. It was recognised as Rule of Strict Liability which means that even if the defendant was not negligent or he had

¹⁰ Hemant Varshne, Union Carbide Corporation vs Union of India etc.- Case Summary, Law Times Journal (23-09-2018) <http://lawtimesjournal.in/union-carbide-corporation-vs-union-of-india-etc-case-summary/>.

¹¹ The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.

¹² 'Parens Patriae' is latin for parent of his/her country, https://www.law.cornell.edu/wex/parens_patriae.

¹³ The Environment Protection Act, 1986.

¹⁴ The Public Liability Insurance Act, 1991.

¹⁵ The National Green Tribunal Act, 2010.

no intention to cause harm or he was cautious, he still can be held liable. The principle was evolved in the historical case of *Rylands v. Fletcher*¹⁶; in which the defendant got a reservoir constructed on his terra firma via independent contractors to provide water to his mill. The contractor failed to observe that there were unused shafts under the site and did not plug them. Due to this negligence of contractor when the reservoir was filled, water broke out through shafts and destroyed the plaintiff's coal-mines on the adjacent land.

The facts of the case clearly explain that there was no fault of the defendant and the accident occurred due to negligence of the independent contractor, yet the defendant was held liable.

Justice Blackburn pounded the principle of strict liability as¹⁷:

"The rule of law is, that the person who for his own purposes brings on his lands and keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape."

To apply the Doctrine of Strict Liability, following essentials must be fulfilled:

- A person must have brought some dangerous thing on his land.
- Such thing must escape from his land.
- The use of land must be non-natural.

This Doctrine emphasises that if anything is brought up by a person on his land which is dangerous if it escapes from the land then his liability will be strict and he cannot claim any defence of not having any mala fide intention or not being negligent.

However, the House of Lords listed some peculiar circumstances where this Doctrine of Strict Liability shall not be strictly adhered to¹⁸:

- When the damage is caused by Sufferer's (plaintiff) own fault;
- When the circumstances under which damage is caused are created by natural forces i.e. Act of God (Vis Major);
- When the act causing damage is done by Plaintiff's own Consent i.e. Volenti Non Fit Injuria;
- When the damage is caused by a stranger's act;

¹⁶ (1868) LR 3 HL 330.

¹⁷ Ibid.

¹⁸ R.K. Bangia, Law of Torts, Allahabad Law Agency, Faridabad, 2016, p. 336.

- When the Act is permitted or ordered to be done by the provision of a Statute.

The Defendant can claim any of the above exception to evade his liability. These exceptions were propounded along with the doctrine in the 19th century¹⁹. With the passage of time these exceptions created various limitations in the coeval industrialised world. And the same was noticed by the Supreme Court of our Country when they evolved the principle of Absolute Liability.

IV. ABSOLUTE LIABILITY

The Doctrine of Strict Liability was found to be insufficient to bring home liability to the defendants who have established hazardous and inherently dangerous industries in and around thickly populated areas.

In the case of *M.C. Mehta v. Union of India*²⁰, the seven Judge bench of Apex court dealt the claims referred by a three judge bench which arose from the oozing of oleum gas from one of the plants of Shriram Foods and Fertilizers Industries, Delhi. This incident killed one advocate practicing at Tis Hazari Court and affected several others. This was 2nd horrific gas leak incident in the time span of a year after the monstrous Bhopal Gas Leak. After looking into the seriousness of the matter and the dire need to give Justice, Apex Court took a brave decision by declaring that the Court is not obligated to walk on the steps of a century old doctrine carved by the English Court and is capacitated to develop a principle which is well suited to our contemporary socio-economic conditions.²¹

As a result of the Judicial Aplomb, the Doctrine of Absolute Liability was evolved to create complete and unconditional liability for the damage inflicted by hazardous and dangerous substances. Propounding this new Shield of Justice, C.J., P.N. Bhagwati (as was then) explained the rule as²²:

“An enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous activity which it has undertaken. The enterprise must be absolutely liable to compensate for any harm and it should not be given any defence that the harm occurred without any negligence on its part.”

¹⁹ Rylands v. Fletcher, (1868) LR 3 HL 330.

²⁰ A.I.R. 1987 S.C. 1086.

²¹ Ibid at 1098-1099.

²² Ibid at 1099.

The Guardians of Justice reasoned this Principle on two justifications²³:

- That when an enterprise carries on perilous and intrinsically dangerous activity for its own personal gains, it has a social responsibility to pay for the damages and sufferings it has caused to others.
- The enterprise alone has resources to discover and guard against such hazards and dangers.

After M.C. Mehta v. U.O.I., courts all across the nation followed the doctrine of absolute liability in the cases of hazardous and dangerous activities. The precedent has been settled by the apex court itself and has given numerous verdicts by applying the same principle.

V. VIZAG GAS LEAK: APPLICATION OF STRICT OR ABSOLUTE LIABILITY?

In the case at hand i.e., Vizag's ghastly catastrophe, the National Green Tribunal took suo moto cognizance²⁴ on the basis of Media Reports and stated that the styrene gas comes under the hazardous chemicals as per Rule 2(e) read with Entry 583 of Schedule I to the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989. The said rules necessitates an on-site and off-site emergency plans to ensure prevention of damage and there was apparently non-observance of these rules which created such a large-scale damage to human beings and environment.

The NGT at first stated that such incident of leakage of hazardous chemical affecting public health and environment clearly attracts principle of STRICT LIABILITY²⁵.

The usage of term 'STRICT LIABILITY' sabotages the purpose to be served by the historical evolution made by the Supreme Court in oleum gas leak case²⁶ which was upheld as a binding precedent in Bichhri village²⁷ case. Ostensibly the penumbra of doubt raised by the terminology used cropped up from the Sec 17(3) of The National Green Tribunal Act, 2010. The Section states that

“The Tribunal shall, in case of an accident, apply the principle of NO FAULT”²⁸

The Phraseology used in the provision raises several interpretative queries. There can be more

²³ Ibid.

²⁴ Sumit Bhattacharya, Vizag gas leak: an avoidable tragedy, The Hindu (18-05-2020) <https://www.thehindu.com/news/national/andhra-pradesh/avoidable-tragedy/article31609216.ece>

²⁵ In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram village Vishakhapatnam in Andhra Pradesh <http://www.indiaenvironmentportal.org.in/files/file/LG-Polymer-industrial-accident-Visakhapatnam-NGT-order.pdf>.

²⁶ M.C. Mehta v. Union of India, A.I.R. 1987 SC 1086.

²⁷ ICELA v. Union of India, WP 967/1989.

²⁸ Section 17(3), The National Green Tribunal Act, 2010.

than one interpretation to analyse the legislative intention behind using the words ‘no fault’. As both the principles of Strict and Absolute Liability comes under the arena of No Fault. The term used by NGT creates a significant impression that the interpretation chosen by it is to create Strict Liability instead of Absolute.

The term ‘no fault’ could also be understood as covering both Strict and Absolute liability as the legislation has not used the term strict liability itself. There must be some plausible rationale behind such choice of words. Further, the legislator must be well aware of the binding precedent created by the Supreme Court regarding the use of absolute liability. It must be intended to encompass Absolute Liability in accordance with the matter at hand and especially in the cases of hazardous and inherently dangerous industries²⁹.

According to The Environment Protection Act, 1986, a hazardous substance is

*“any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plants, micro-organism, property or the environment.”*³⁰

The industry dealing with such hazardous substances is known as hazardous industry. Hence, one can safely assume that the legislative intent is to encompass both the liabilities within the term ‘no fault’.

Keeping in view the judicial precedents and the significance of appropriate phraseology, NGT righteously used the term Absolute Liability in its order dated 03-06-2020.³¹ The bench headed by Justice Goel ordered that

*“LG Polymers is obligated by ABSOLUTE LIABILITY for the loss of life and damage to public health in the gas leak incident and also directed that the interim penalty of 50 crore will be spent on compensation to victims and restoration of environment.”*³²

This order gave a sigh of relief as it removed any kind of penumbra of doubt over the ousting of the decorated principal of Absolute Liability from the Indian Legal Machinery.

VI. CORPORATE CRIMINAL LIABILITY

Criminal Liability in industrial disasters is governed by Indian Penal Code, 1860. In the Case at hand, an FIR was registered against the South Korean electronics giant LG Polymers’

²⁹ Sujith Koonan and Harshita Singhal, Vizag Gas Leak Incident: A Case for Absolute Liability? (14-05-2020) <https://www.livelaw.in/columns/vizag-gas-leak-incident-a-case-for-absolute-liability-156745>.

³⁰ Section 2(e), The Environment Protection Act, 1986.

³¹ Anonymous, Vizag Gas Leak: LG Polymers India has Absolute Liability, says NGT <https://thewire.in/law/vizag-gas-leak-lg-polymers-ngt>.

³² Ibid.

management under several sections of IPC including Section 278- Making atmosphere noxious to health, section 284- Negligent Conduct with respect to poisonous substance, section 285- Negligent Conduct with respect to fire or combustible matter, section 337- Causing hurt by act endangering life or personal safety of others, section 338- Causing Grievous hurt by act endangering life or personal safety of others and Section 304- Culpable Homicide not amounting to murder.³³

The befuddling point in attaching criminal liability to a company arises from the fact that a company unlike a human being cannot possess criminal intent which is an essential ingredient in most of the crimes. Even though section 11 of IPC, 1860 includes a company, association or body of persons within the definition of ‘Person’³⁴ yet there is no provision in the code³⁵ to apply vicarious liability of Managing Directors or Directors of company when Company is accused in a criminal case. There are some sections in IPC which recognises the vicarious liability yet there is a void in legislation with regard to a corporation criminal liability.

The perplexing question of corporate criminal liability has been raised in the Court of Justice in many cases. The courts have clarified the some important points on the vicarious liability of managing heads of a corporation in a criminal case in the recent cases.

In the case of *Sunil Bharti Mittal v. CBI*³⁶, the three Judge Bench held that there is undoubtedly a corporate entity is a juristic person acting through its officers, directors, managing directors, chairpersons etc and if such company does any act which necessitates mens rea then of course such an act of company will be attributed to such managers of the company but the directors or other managing heads cannot be imputed customarily. Such managing heads can be imputed only 2 circumstances i.e. *firstly*, if there is sufficient evidence of such person’s active role in the commission of crime coupled with criminal intent like in the case of conspiracy or abetment. Or,

Secondly, in case the statute itself provides for vicarious liability by using principle of attribution for any criminal act done by the company.

In another recent case of *Shiv Kumar Jatia v. State*³⁷, the Supreme Court reiterated the principle laid down in the *Sunil Bharti Mittal’s* case by stating that, “an individual either as Director or a Managing Director or a Chairperson of the company can be made an accused, along with the

³³ <https://english.manoramaonline.com/news/nation/2020/05/07/vizag-gas-leak-police-register-criminal-case-against-plant-management.html>.

³⁴ Section 11, The Indian Penal Code, 1860.

³⁵ The Indian Penal Code, 1860.

³⁶ (2015) 4 SCC 609.

³⁷ Criminal Appeal No. 1263 of 2019 – Arising out of S.L.P. (CrI.) No. 8008 of 2018.

company, only if there is sufficient material to prove his active role coupled with criminal intent and the criminal intent must have nexus with the accused.”

In the present case, FIR has been filed against the company under sections of Indian Penal Code but the Code does not specifically provide for vicarious criminal liability of the members of the company when company is accused. So the only case when the directors or managing heads can be held liable is if the evidence substantiates their active participation along with their criminal intent which appears to be a herculean task to prove.

In Bhopal Gas Disaster also, criminal charges for culpable homicide not amounting to murder were imposed against UCCI yet the prosecutors could not succeed in proving those charges against the managing heads of the corporation. The prosecution had to drop the criminal charges.³⁸

Ostensibly, there is an utter need of specific laws to handle the horrifying disasters of such gravity. There must be amendments to include vicarious liability of the culprits sitting behind the corporate veil.

VII. FLOUTING PRINCIPLE OF NATURAL JUSTICE

Principle of Natural Justice is inherent in every civilized society. It will not be wrong to term the rule of Natural Justice as the core fundamental right and the essence of a fair trial. These rules are not always expressly specified in a statute but they are always impliedly there to ensure that Justice is delivered. They are generally laid down by courts to give protection against arbitrary procedure that may be adopted in any judicial or administrative proceedings.

Nemo Debet esse judex in propria causa (Rule against bias) is one of the core principles recognized by Natural Justice.

The Latin maxim denotes that-

*“No One Shall be a Judge in his Own Cause or a cause in which he is interested.”*³⁹

To infuse faith in the system, Justice must not only be done but it should also be seen to be done. And for that the Rule against Bias is a solid foundation on the basis of which every investigation, inquiry or trial must be done.

In the present case, the NGT created a 5 member committee and also served notice to Central Pollution Control Board, Andhra Pradesh State Pollution Control Board and Ministry of

³⁸ Union Carbide Corporation v. Union of India, 1989 SCC (2) 540.

³⁹ Laskit, Concept of Natural Justice, Legal Services India, <http://www.legalserviceindia.com/legal/article-1549-concept-of-natural-justice.html>.

Forests and Climate Change as one of the major issue in the accident was that the industry was working for the past 2 decades without any environment clearance as is mandatory by EIA notification of 2006.⁴⁰

Meanwhile, the Andhra Pradesh government also constituted its own high-powered committee which became a stumbling block in the way of unbiased proceedings. As it is a matter of fact that the senior official of the Centre and State Pollution Control Board will be members of this 'High-Powered Committee' and will kill the whole purpose of inquiry by violating the Rule against Bias. It is against the very soul of justice when the investigating agencies are given charge to investigate their own follies.

This Rule against Bias was also questioned in the lodestar case of Bhopal Gas Leak when the Union of India which was a minority stake holder in the Union Carbide Corporation India and thereby also the defendants in the lie of the land became the Prosecutors on behalf of the Victims. The Union of India by enacting a law on the basis of principal of Parens Patriae proceeded against the UCCI⁴¹.

Such violation of Natural Justice was questioned in the Apex Court by questioning the constitutionality of the Act in the case of *Union Carbide Corporation v. Union of India*.⁴²

The SC emphasized that there was a conflict between the rule of Natural Justice and the Rule of Necessity as there was indeed a need to represent the voices of victims who could not represent themselves in the court of law. Moreover, the constitution of India obligates the Government to cater to the needs of its citizens and to secure their rights. Court followed the principal laid down in *Charan Lal Sahu v. Union of India*⁴³ and declared the Bhopal Act, 1985 as valid and constitutional as per the principal of Parens Patriae.

It is pertinent to note that the necessity of violating the rule against bias in Bhopal Gas Tragedy could be recognized even though the Justice died a slow and agonising death in that case. But there is no such evident necessity in the Vizag disaster which shall let the authorities violate the rule of natural justice by creating a committee which will look into its own follies.

VIII. EPILOGUE

“Progress is impossible without change, and those who cannot change their minds cannot change anything.”

⁴⁰ Environment Index Assessment Notification, 2006
<http://www.environmentwb.gov.in/pdf/EIA%20Notification,%202006.pdf>.

⁴¹ Union Carbide Corporation v. Union of India, 1989 SCC (2) 540.

⁴² 1989 SCC(2) 540.

⁴³ (1989) INSC 395.

-George Bernard Shaw

Our Nation has witnessed World's worst Chemical Disaster of all times. We have been the victims of the ghastly catastrophe that was caused due to negligence of some irresponsible industrialists. As dramatic as it may sound, but the categorical truth is that any sane mind would have learnt a lesson of lifetime that such a holocaust shall not occur ever again yet here we are witnessing cataclysmic smokes in our air every now and then, killing a few, injuring a thousand, burning the flora and fauna and eating up the environment. The numbers of chemical disasters occurring in our country are on all-time high.

There is a Brobdingnagian gap in the laws for bringing grist to the mill. It is high time that our authorities change their attitude towards environmental laws' violations. The taken for granted attitude towards the environment needs to be dropped urgently.

As a developing nation we have a tendency to be in a quandary over choosing the big fat industrialists for our economic growth or to take stringent actions against the same for violation of environment laws. Usually, we chose the former over the latter and tend to be hand in hand with them and such a bargain is vehemently opposed by the researcher for the need of the hour is to prioritize environment and Public Health over any financial benefits.

It is the time to gird up our loins to prevent any such spine-chilling incident from occurring again. Not only the laws need to be stringent but their execution is also needed to be done fairly. All the culprits whether government authorities or private individuals responsible for such lack of prudence that led to the appalling accident must be brought before court of law without any delay. There is a dire need to do the investigation with honesty and fairness so that an exemplary Judgment can be given that may create a deterrent effect in future.
