



SAI SINDHU INTERNATIONAL JOURNAL OF RESEARCH (SSIJR)

www.ssijsr.org

**40 YEARS AFTER BHOPAL GAS TRAGEDY: PIL ON HAZARDOUS
WASTE INCINERATION AT PITHAMPUR**

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ABSTRACT

The 1984 Bhopal Gas Tragedy remains etched in the collective memory of India as a stark reminder of industrial negligence and its devastating impact on human life and the environment. Forty years later, Madhya Pradesh once again faces an alarming environmental challenge in Pithampur, where hazardous waste incineration is being carried out under questionable safety standards. The unchecked release of toxic emissions, improper disposal practices, and inadequate monitoring mechanisms have raised grave concerns about air quality, soil contamination, and groundwater pollution. Communities residing in the vicinity are exposed to severe health risks, repeating the cycle of vulnerability witnessed in Bhopal. This Public Interest Litigation (PIL) seeks to prevent history from repeating itself by invoking constitutional and environmental safeguards. The legal basis for this PIL is firmly rooted in Article 21, which guarantees the right to life, now judicially expanded to include the right to a clean and healthy environment. Further support comes from Articles 48A and 51A(g), which enjoin the State and citizens to protect and improve the environment. Landmark precedents such as MC Mehta v. Union of India, Indian Council for Enviro-Legal Action v. Union of India (1996), and the principle of “polluter pays” as well as “precautionary principle” established under environmental jurisprudence, provide a strong legal foundation. Summarizing the

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arguments, the PIL was maintainable under Article 32 of the Constitution as it raised grave violation of Fundamental Rights under Article 21. Despite post-1985 legislation, the Union and State have failed to discharge their duty to protect victims of the Bhopal Gas Tragedy. Toxic waste continues to pollute soil, water, and air, while hazardous disposal at Pithampur has created new dangers. The petitioners, having bona fide interest, have locus standi, and exhaustion of local remedies is no bar where Fundamental Rights are violated. Continued neglect, unsafe conditions, and lack of remediation demand urgent judicial intervention. In light of these arguments, the petition prayed for immediate judicial intervention to halt hazardous incineration practices at Pithampur until full compliance with statutory safety norms is ensured. It was further prayed the constitution of an independent monitoring committee under the direct supervision of the court, the adoption of sustainable and scientifically sound waste management alternatives, and the conduct of comprehensive health impact assessments for the affected population, with state-funded medical facilities provided to them. The petition also calls for strict accountability measures against defaulting industries by applying the “polluter pays” principle, thereby ensuring that economic gains are not prioritized over human lives and environmental integrity. The innovative dimensions of this PIL lie in its historical framing and forward-looking approach. By explicitly drawing parallels with the Bhopal Gas Tragedy, the petition underscores the urgency of preventing another large-scale disaster; transforming collective memory into a constitutional demand for accountability. It also expands the traditional scope of environmental PILs by foregrounding public health as a central axis of environmental justice, thereby aligning domestic jurisprudence with evolving global norms on climate and environmental health governance. Finally, it calls for integrated remedies that combine judicial oversight, technological innovation, community rights, and inter-generational responsibility, making this petition not merely reactive but structurally preventive.

This PIL, therefore, is not only a demand for immediate relief but also a blueprint for embedding environmental vigilance within constitutional culture—forty years after Bhopal, India cannot afford another tragedy.

KEYWORDS- *Human life. precautionary principle, Fundamental Rights, Accountability etc.,*

BEFORE THE HON'BLE
SUPREME COURT OF INDIA

(Civil Original Jurisdiction)
PUBLIC INTEREST LITIGATION (PIL)

W.P.No. ____ OF 2025

UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

IN THE MATTER OF:

Planet Pals,
Rep by its President, Mr. X, S/o Mr. Y,
Office at 1-23/B, ABC Road, Mukherji Nagar,
Pithampur, Madhya Pradesh, India

...PETITIONER

VERSUS

Union of India& Ors.

...RESPONDENTS

UPON SUBMISSION TO THE HON'BLE CHIEF JUSTICE AND HIS COMPANION
JUSTICES OF THE SUPREME COURT OF INDIA

MEMORANDUM ON BEHALF OF THE PETITIONER

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TABLE OF ABBREVIATIONS

Abbreviation	Expanded Form
No.	Number
Ors.	Others
ed.	Edition
v.	Versus
Ltd.	Limited
Art.	Article
UCIL	Union Carbide India Limited
UCC	Union Carbide Corporation
UOI	Union of India
PIL	Public Interest Litigation
AIR	All India Reporter
SCC	Supreme Court Cases
CPCB	Central Pollution Control Board
MPPCB	Madhya Pradesh Pollution Control Board
GAIA	Global Alliance for Incinerator Alternatives
SC	Supreme Court
SCR	Supreme Court Reporter
Vol.	Volume
Supl.	Supplementary
Supp.	Supplementary
A.P.	Andhra Pradesh
HP	Himachal Pradesh
Ano.	Another
UN	United Nations

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STATEMENT OF JURISDICTION

The Hon'ble Supreme Court has the jurisdiction to try this instant Public Interest Litigation under Article 32³ of the Constitution of India. The Petitioner has approached this Hon'ble Court in apparent violation of Fundamental Rights, which has occurred due to the continuance of extreme environmental degradation that has not been curbed and harm that has not been rectified. Therefore, the Petitioner maintains that Article 32 is applicable in the instant case.

³ Article 32, Constitution of India

32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warrant and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

STATEMENT OF FACTS

1. Background

In December 1984, a catastrophic industrial disaster occurred at the Union Carbide India Limited (UCIL) pesticide plant in Bhopal, Madhya Pradesh. A highly toxic gas, *methyl isocyanate* (MIC), leaked from the facility, exposing over half a million people to poisonous fumes. Thousands died immediately, and many more have since suffered severe and permanent injuries, chronic illnesses, and environmental damage.

2. Corporate Structure and Responsibility

UCIL was a subsidiary of Union Carbide Corporation (UCC), a U.S.-based multinational corporation, which held a controlling interest (approximately 50.9%) in UCIL at the time of the disaster. It is submitted that the parent company exerted control over critical decisions related to plant design, safety protocols, maintenance budgets, and management policies.

3. Immediate Aftermath

The Government of India responded by enacting *the Bhopal Gas Leak Disaster (Processing of Claims) Act*, 1985, which gave the central government the exclusive right to represent victims in civil litigation against UCC. Subsequently, the Union of India filed a suit for compensation in the U.S. District Court of New York, which was dismissed on the grounds of forum non conveniens, directing the case to Indian courts.

4. Settlement Agreement (1989)

The Supreme Court of India, in an order dated 14th February 1989, approved a settlement of 470 million U.S. Dollars between the Union of India and UCC. The Court quashed all criminal proceedings against UCC and its officials as part of the settlement. This decision was widely criticised for being unjust, inadequate, and not reflective of the scale of human suffering or environmental degradation.

5. Review Petition and Reopening of Criminal Cases

In *Union Carbide Corporation v. Union of India (1991)*, the Supreme Court, upon review, partially reversed its earlier order by restoring the criminal cases against UCC and its officials. However, the settlement amount remained unchanged, which continued to be a subject of public dissatisfaction and legal contestation.

6. Environmental Impact and Continued Injustice

Decades after the tragedy, the site remains contaminated with hazardous waste, groundwater pollution, and lingering health effects. The failure of Union Carbide (now owned by *Dow Chemical Company* post 2001) and Indian authorities to ensure environmental remediation forms a continuing cause of action under environmental justice jurisprudence.

Post 2008, the Pithampur incinerator facility has been used to dispose of the hazardous industrial waste, which is now causing immense challenges to the people living near the site.

STATEMENT OF ISSUES

If it may please this Hon'ble Court, in the interest of justice and on account of the reason of necessity and brevity, this Hon'ble bench is empowered to address the following issues, provided as hereunder:

ISSUE 1

Whether the Public Interest Litigation is maintainable against the Union of India and concerned authorities?

- 1.1.The Petition is urgent and has wide public impact and has been filed in good faith and public interest and therefore is maintainable as Public Interest Litigation
- 1.2.Prima Facie Fundamental Rights violated and Alternate remedy not a bar
- 1.3.The jurisdiction of the Supreme Court under Article 32 of the Indian Constitution extends to violation of the rights alleged in the present matter

ISSUE 2

Whether the gas leak and its aftermath violated the right to life and environmental safety of the people affected in Bhopal?

- 2.1.Violation of the Right to Life under Article 21
- 2.2.Violation of the Right to Environmental Safety

ISSUE 3

Whether the company and the concerned authorities should be held fully responsible for the long-lasting effects on the environment and people?

- 3.1.Constitutional Grounds for Liability
- 3.2.Lapse in Post-Disaster Action and Procedural Negligence
- 3.3.International Cases for Persuasive Effect

SUMMARY OF ARGUMENTS

1. WHETHER THE PUBLIC INTEREST LITIGATION IS MAINTAINABLE AGAINST THE UNION OF INDIA, AND CONCERNED AUTHORITIES?

It is humbly submitted that the instant PIL is maintainable under Article 32 of the Indian Constitution. The argument is fourfold. Firstly, the Union has a duty to protect the interests of the victims post-1985 legislation. Secondly, the petitioners have a *bona fide* interest and hence they have *locus standi* to approach this Court. Thirdly, exhaustion of local remedies is not a bar when an adequate violation of Fundamental Rights can be made out. Lastly, this Court has the jurisdiction to try the instant matter on a grave violation of Fundamental Rights.

2. WHETHER THE GAS LEAK AND ITS AFTERMATH VIOLATED THE RIGHT TO LIFE AND ENVIRONMENTAL SAFETY OF THE PEOPLE AFFECTED IN BHOPAL?

It is submitted that the 1984 Bhopal gas leakage has caused thousands of deaths, permanent health impairments to a large public and severe environmental damage, violating the Right to Life under Article 21 of the Constitution. The harm is still continuing today, as dangerous chemicals remain in the soil and groundwater, making them unsafe for use. The State has not cleaned the waste or stopped the dumping of toxic material in nearby areas. People are still forced to live in unsafe and unhealthy conditions. This shows clear neglect of the duty to protect the lives and health of citizens. The suffering has not ended, and each day, more people and the environment are put at risk. Hence, the State's negligence demands urgent remediation and enforcement of environmental and constitutional safeguards.

3. WHETHER THE UNION AND THE CONCERNED AUTHORITIES SHOULD BE HELD FULLY RESPONSIBLE FOR THE LONG-LASTING EFFECTS ON THE ENVIRONMENT AND PEOPLE?

It is submitted that the Union of India and State authorities are responsible for the ongoing harm that the negligence has caused to people's health and the environment. Decades later, poisonous chemicals still pollute the soil, water, and air, showing a clear failure to clean the

affected area or protect the public. Instead of using safe methods, the authorities disposed of toxic waste at Pithampur, creating new dangers and risking more contamination. People in the affected areas continue to suffer without proper medical care or rehabilitation, while unsafe waste disposal threatens even more communities. The State cannot avoid blame by pointing to the company; it has a duty to protect people and ensure safe living conditions. The inaction and wrong decisions have made the damage worse and allowed the danger to spread. Hence, the Union and all concerned authorities must be held fully accountable and ordered to take urgent, proper action.

ARGUMENTS ADVANCED

1. WHETHER THE PUBLIC INTEREST LITIGATION IS MAINTAINABLE AGAINST THE UNION OF INDIA, AND CONCERNED AUTHORITIES?

1. It is humbly submitted before the Hon'ble Supreme Court that this petition is maintainable against the Union of India and all such authorities that come within the ambit of Article 12⁴ as 'state'⁵ and in charge of making good the environmental degradation caused in Bhopal, Madhya Pradesh and now in Pithampur site in Madhya Pradesh only 217 kilometres away from the UCIL site, due to failure to fix healthily, the grave injury caused to the environment and life subsequently of the people residing there, on the wake of the incident which occurred midnight on 2nd – 3rd December, 1984, releasing 40 tonnes of *methyl isocyanate* into the atmosphere.
2. It is to be noted that the concerned authorities fall within the meaning of 'state' under Article 12 of the Constitution. The authorities, therefore, have a 'public function'⁶ and duty to take care not only ostensibly. The duty to take care means more than just solving the problem; to do it safely, promotes and does not demote the way of healthy living⁷. In this case, the Madhya Pradesh government, having received 12,600 crore rupees, intends to incinerate the packaged hazardous industrial waste of about 337 tonnes of Bhopal waste at the Pithampur facility. This will only release more chemicals and spread the problem at hand.
3. The court has recognised the Government's right to represent victims as *Parens Patriae*⁸ under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985. Following which the Government has exclusive right to represent the victims of the disaster. *Parens Patriae* is not exhausted upon awarding the monetary compensation of 470 million U.S. dollars, the obligation to safeguard victims from further harm is continuous.
4. This duty extends to safe environmental restoration of the UCIL site and to ensure no secondary harm is caused thereafter from waste disposal.

⁴Art. 12, Constitution of India

⁵In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

⁶Ramana Dayaram Shetty v. International Airport Authority of India, 1979 (3) SCC 489

⁷ Rajni Hariom Sharma v. Union Of India And Another, 2020 SCC ONLINE BOM 880, Charan Lal Sahu v. Union Of India, 1990 SCC 1 613.

⁸Charan Lal Sahu v. Union of India, 1990 SCC 1 613.

5. However in the instant case, the same Government is responsible for injecting toxic metals into the environment causing irreparable loss to environment and life. The contaminated soil and groundwater has particles of pollutants such as deildrin, hexachlorobenzene and aldrin which stay past incineration and micro plastics which are in the soil.
6. Waste from the UCIL site is a direct consequence of the original disaster; thus, harm caused during disposal is part of the same chain of responsibility. While the Union represents victims in actions against third parties (UCC, Dow Chemical), that role does not grant immunity to the Union if its own acts or omissions cause harm. In fact, *Charan Lal Sahu*⁹ makes it clear that *parens patriae* is a fiduciary role, and if the fiduciary breaches the duty of care, they can be held accountable. Therefore, there is no legal conflict in bringing a case against the Union when it is the very agent causing harm — the representation was to protect victims, not to shield the Union from liability for subsequent negligence.
7. There is apparent violation of fundamental right sowing to the fact that the environment and the very soil is contaminated and gives poor living standards to the people inhabiting the site and the facility¹⁰ site of Pithampur.
8. 40 years ago still, continuous cause of action applies¹¹.
9. Therefore, the petition is maintainable against the Union and the concerned state authorities owing to their duty to protect against detrimental living conditions.

1.1 The Petition is urgent and has wide public impact and has been filed in good faith and public interest and therefore is maintainable as Public Interest Litigation

10. The Supreme Court comes with powers for constitutional remedies under Article 32 of the Constitution, to invoke which, it is not an essential part that an actual fundamental right is violated, but the apprehension of threat suffices¹². In the instant case however, the situation is not only of apprehension, but the local biodiversity also took hit of the

⁹Charan Lal Sahu v. Union of India, 1990 SCC 1 613.

¹⁰ T.N. Godavarman Thirumalpad v. Union of India (2002) 10 SCC 606, Court On Its Own Motion v. State Of Himachal Pradesh 2016 SCC ONLINE HP 244, Himachal Pradesh Bus Stand Management And Development Authority v. Central Empowered Committee And Others AIR 2021 SUPREME COURT 657.

¹¹ Madireddy Padma Rambabu v. District Forest Officer, E.G. District 2002(1)ALD728, State Of Uttaranchal v. Balwant Singh Chauhal And Others AIR 2010 SUPREME COURT 2550, Goa Foundation And Others v. State Of Goa And Others 2001(4)BOMCR226.

¹²Roop Chand v. State of Punjab, AIR 1963 SC 1503; Maganbhai V. Union of India AIR 1969 SC 783; D.A.V College v. State of Punjab AIR 1971 SC 1731.

poisonous *methyl isocyanate* which caused death of more than 2000 people instantly and severe health problems to half a million people. After 40 years, it still exists in soils, groundwater, dump yards and is continuously there as part of industrial waste.

11. The recent endeavours to incinerate the hazardous industrial waste is detrimental as abovementioned. Its urgency therefore is apparent and real threat to fundamental rights exist. The most important fundamental right of an individual is their right to life¹³ and this cannot be fiddled with.
12. Even after 40 years of the incident the terror is fresh and today¹⁴ the secondary pollutants that are untraceable until at certain temperature, the ash after incineration and the by-products are still unanswered on the handling process¹⁵. The effects are elaborated in detail in Issue 2 and annexures attached.
13. The Supreme Court on *locus standi* has evolved new rules and simultaneously diluted the requirement of strict need for interested petitioners. In landmark cases¹⁶ the SC has given way to any public member who has sufficient interest to bring a petition in *good faith* and for public good. In *S. P. Gupta v. Union of India*¹⁷, the bench has elucidated that, for public injury caused by breach of public duty, any member of the public having sufficient interest in the cause can seek judicial redressal.
14. Therefore, Planetpals Organization, an NGO based in Pithampur, Madhya Pradesh, has sufficient nexus to act as Petitioners, bringing cause of horrific environmental damage and further degradation due to the site acting as an incineration facility and subsequent violations of fundamental rights. Further, the court in, *T.N. Godavarman Thirumulkpad v. Union Of India*¹⁸ has significantly waived the *locus standi* rule if the petitioners are bringing a substantial public interest claim¹⁹.

¹³Maneka Gandhi v. Union of India, 1978 AIR 597.

¹⁴ Bhopal Gas Peedith Mahila Udyog Sangathan And Others v. Union Of India And Others AIR 2012 SUPREME COURT 3081, R.K. Gupta v. State Of M.P. 2012 SCC ONLINE MP 9966, Bhopal Gas Peedith Mahila Udyog Sanghathan v. Union Of India 2007 (9) SCC 707.

¹⁵<https://university.open.ac.uk/research-centres/herc/blog/bhopal-2025-expanding-sacrifice-zone-pithampur>

¹⁶SP Gupta v. UOI AIR 1982 SC 149, PUDR v. UOI AIR 1982 SC 1473, Bandhua Mukti Morcha v. UOI 1984 AIR 802.

¹⁷ S. P. Gupta v. Union of India, AIR 1982 SC 149.

¹⁸ T.N. Godavarman Thirumulkpad v. UOI, (2002) 10 SCC 606.

¹⁹ SP Gupta case, Guruvayur Devaswom Managing Committee v. CK Ranjan & Ors. 2004 AIR SC 561, Janata Dal v. H.S. Choudhary AIR 1993 SC 892, PUDR v. UOI, Bandhua Mukti Morcha v. UOI, T.N. Godavarman Thirumulkpad v. UOI,

1.2 Prima Facie Fundamental Rights violated and Alternate remedy not a bar

15. It can be adequately established that Fundamental Rights have been grossly infringed, especially Article 21²⁰ which gives for right to life. The standard quality of life that is ensured should be held high. Environmental concerns is a part of right to life²¹ and every such act which perishes this dignity should be made good by the duty bound -the Union of India and the concerned authorities.
16. In the present matter fundamental rights violation is in question and no effective or existing alternative remedies should be a bar to entertain a petition under Article 32 of the Constitution, if an actual breach is *prima facie* established.²² Further exhaustion of local remedies is not binding in the present case.

1.3 The jurisdiction of the Supreme Court under Article 32 of the Indian Constitution extends to violation of the rights alleged in the present matter

Rights of local people affected²³.

17. The Supreme Court's writ jurisdiction under Article 32 is plainly engaged because the UCIL site's continuing contamination constitutes a present and ongoing infringement of victims' fundamental right to life and personal liberty. The Court has repeatedly held that Article 21²⁴ embraces the right to a clean and healthy environment.
18. The Parliament and court on different occasions has recognised the Union's *parens patriae* role to represent and protect victims; that role imports a continuing fiduciary duty. Failure to remediate or prevent secondary contamination is therefore a continuing breach warranting relief under Article 32.

Rights of people living around Bhopal affected, especially Pithampur

19. Residents around the Pithampur incinerator suffering air, soil or water contamination from state-sanctioned waste disposal suffer violations of Article 21²⁵ that are amenable to constitutional remedy. Studies by the Centre for Science and Environment (CSE) and

²⁰Art. 21, Constitution of India

²¹M.C. Mehta v. Union Of India AIR 1987 SC 160, Lal Bahadur v. State Of Uttar Pradesh 2018 SCC 15 407.

²²State of Bombay V. United motors Ltd. AIR 1953 SC 252, K.K. Kouchunni V. State of Madras AIR 1959 SC 725

²³ Lal Bahadur v. State Of Uttar Pradesh And Others 2018 SCC 15 407, Court On Its Own Motion v. State Of Himachal Pradesh 2016 SCC ONLINE HP 244, Laxmi Suting v. State Of Rajasthan AIR 2014 (NOC) 121 (RAJ.), T.N. Godavarman Thirumalpad v. Union Of India (2002) 10 SCC 606.

²⁴ Art. 21, *supranote 18*

²⁵*ibid*

CPCB found groundwater contamination in nearby colonies (e.g., Atal Ayub Nagar, Blue Moon Colony). Contaminants include mercury, lead, organochlorines — linked to cancer, birth defects, and chronic illnesses.

20. Waste from UCIL was transported to Pithampur (Madhya Pradesh) for incineration. Reports indicate improper handling and incomplete combustion, releasing dioxins, furans, and toxic gases. Residents have complained of respiratory issues, livestock illness, and crop damage.
21. Further, the right to approach this Hon'ble Court on grounds of Fundamental Right violation is itself a fundamental right. Therefore, the court has obligation to hear the PIL under Article 32 where class of people are affected, who cannot bring individual cases.²⁶
22. The annexure contains reports to support these violations.

2. WHETHER THE GAS LEAK AND ITS AFTERMATH VIOLATED THE RIGHT TO LIFE AND ENVIRONMENTAL SAFETY OF THE PEOPLE AFFECTED IN BHOPAL?

23. It is humbly submitted that both the gas leak and its aftermath grossly deteriorated the local biodiversity and violated the Right to Life under Article 21²⁷ in the Constitution of India, thereby violating environmental statutes, conventions and causing significant harm to the quality of life. The tragedy's aftermath has severely deteriorated the local biodiversity, contaminated soil and air and groundwater, which impacts human health for decades.
24. The Supreme Court has continuously interpreted that the Right to Life and Personal Liberty also includes the right to a clean, healthy and sustainable environment, as it is essential for living with human dignity. Right to life is a fundamental right under Article 21²⁸ of the Constitution, and it includes the right to the enjoyment of pollution-free water and air for the full enjoyment of life.²⁹ The death estimates placed the number around 2000 in a very few days, which occurred instantly at home, in the streets and

²⁶ Anirudh Kumar v. Municipal Corporation Of Delhi And Others 2015 AD SC 4 81, R & M Trust v. Koramangala Residents Vigilance Group And Others 2005 SUPREME 1 405, Guruvayoor Devaswom Managing Committee And Another v. C.K Rajan And Others 2004 AIR SC 561.

²⁷ Art. 21, *supra* note 18

²⁸ *ibid*

²⁹ Subhash Kumar vs State Of Bihar And Ors, 1991 (1) SCC 598

hospitals.³⁰ There has been a gross violation of the Right to Life due to the gas leak. Beyond these deaths, there has always been a long-term effect on people, various other ecosystems and the environment as well.

25. The State's constitutional duties under Article 47³¹, 48-A³², and 51A(g)³³, as well as statutory powers under the Environment Protection Act, 1986³⁴, require it to prevent and remedy such harm. The state has failed to do so, and the unsafe disposal of toxic waste at Pithampur continues to perpetuate the violation.

2.1. Violation of the Right to Life under Article 21

26. It is humbly submitted that in 1984 leak of *methyl isocyanate* gas from the UCC caused thousands of deaths and permanent health impairments, amounting to an immediate Article 21³⁵ violation. As a result of the said leakage, not only the deaths taken place, but it has also caused a huge loss to the environment. The large amount of hazardous waste left on-site has continued and yet continues to release dangerous toxins and chemicals into the ground, which has led to the contamination of the groundwater as well as soil erosion.
27. This Hon'ble Apex Court in *Maneka Gandhi v. Union of India* (1978) 1 SCC 248³⁶ held that life includes all those facets that make it worth living. Similarly, in the case in hand, the Right to Environmental Safety also falls under the ambit of the Right to Life under Article 21³⁷. Moreover, this court also recognised the right to pollution-free water and air as a fundamental right, which is in gross violation in the case in hand due to contamination of the groundwater.
28. The reports of the Pollution Control Boards confirm the persistent contamination beyond the permissible standards. Due to this, not only the people who were affected to date are victims of the said tragedy, but also the current and upcoming generations, as the aforementioned contamination leads to severe health problems.

³⁰Indian Council of Medical Research, *Health Effects of the Toxic Gas Leak from the Union Carbide Methyl Isocyanate Plant in Bhopal*, <https://nirh.icmr.org.in/docs/Long%20Term%20Epidemiological%20Studies.pdf>, accessed 11 August 2025.

³¹Art. 47, Constitution of India

³²Art. 48-A, Constitution of India

³³Art. 51A, Constitution of India

³⁴The Environment (Protection) Act, No. 29 of 1986, India Code (1986).

³⁵Art. 21, *supra* note 18

³⁶*Maneka Gandhi v. Union of India* (1978), *supra* note 11

³⁷ Art. 21, *supra* note 18

29. Under Article 47³⁸ of the Constitution of India, the state always has to improve public health, but in the current case, instead of improving the victims and their families' health is getting worse due to the clear-cut negligence of the state. As per Article 48-A³⁹. The state is also duty-bound to protect and improve the environment. Whereas the environment of the said area is getting worse day by day, and the state is giving a deaf ear to the same, which not only impacts the victims as of today but also the surrounding region. To date, the State has failed to remove toxic waste timely manner and to provide adequate health care or prevent unsafe waste disposal in sensitive areas like Pithampur.
30. This negligent manner of the state comes under the “Doctrine of Continuing Violation” which was upheld by this Hon’ble Court in cases like *Vellore Citizens Welfare Forum v. Union of India* (1996) 5 SCC 647⁴⁰, where it was mentioned that environmental degradation will be considered as a continuing wrong or violation until full restoration, which is as same as the situation in the current case.
31. Hence, the gas leak and the contamination at Bhopal, decades later, mean the Article 21⁴¹ violation is ongoing.

2.2.Violation of the Right to Environmental Safety

32. It is submitted that, as mentioned above, there is a clear-cut Violation of the Right to Environmental Safety, which falls under the ambit of the Article. 21⁴². In *Virender Gaur v. State of Haryana* (1995) 2 SCC 577⁴³ it was held that the clean environment is integral to life, whereas it is under gross violation in the current case due to contamination of groundwater and disposal of hazardous waste in the area of Pithampur, Bhopal. The right to a safe environment is a human right and every human being is entitled for the same. No one shall be deprived of the same under any circumstances.

³⁸Art. 47, *Supra* note 29

³⁹Art. 48-A, *Supra* note 30

⁴⁰*Vellore Citizens Welfare Forum v. Union of India* (1996) 5 SCC 647

⁴¹Art. 21, *supra* note 18

⁴²*ibid*

⁴³*Virender Gaur v. State of Haryana* (1995) 2 SCC 577

33. The Stockholm Declaration⁴⁴ (1972) and the Rio Declaration⁴⁵ (1992) recognises the right to an environment of quality permitting a life of dignity.
34. The Soil of the affected area is contaminated with organochlorines and heavy metals beyond safe limits, and the Groundwater reached the unsafe levels of mercury, chloride, and toxins, which are unfit for drinking. The Air due to incineration of toxic waste at Pithampur risks releasing hazardous emissions and contaminating the Yashwant Sagar Dam catchment.
35. There has been a violation of the Environment Protection Act, 1986⁴⁶, which empowers the Government to set standards, prohibit polluting activities, and mandate remediation, but nothing was effectively implemented in the said affected area. The Hazardous Waste Management Rules, 2008⁴⁷, Prohibit the disposal of waste in sensitive zones, but in the current case, it is under gross violation by the Pithampur site location.
36. The precautionary principle requires preventive action despite a lack of full certainty.⁴⁸ Simultaneously, the polluter must bear the cost of remediation.⁴⁹ Hence, in the current case, non-removal of contamination and unsafe disposal violate both principles, continuing Environmental Threat. In case of continuation of the same, the Contamination may spread further through aquifers and the food chain, affecting new populations, which is a greater harm to society and the public at large.

2. WHETHER THE UNION AND THE CONCERNED AUTHORITIES SHOULD BE HELD FULLY RESPONSIBLE FOR THE LONG-LASTING EFFECTS ON THE ENVIRONMENT AND PEOPLE?

37. It is respectfully submitted that the Union of India, along with the concerned State authorities, must be held fully accountable for both the disaster and its persistent environmental and health consequences.

⁴⁴Declaration of the United Nations Conference on the Human Environment, Stockholm, Sweden, 16 June 1972, UN Doc. A/RES/2994(XXVII), adopted at the 1972 United Nations Conference on the Human Environment.

⁴⁵Rio Declaration on Environment and Development, United Nations Conference on Environment and Development (UNCED), Rio de Janeiro, Brazil, 14 June 1992.

⁴⁶The Environment (Protection) Act, No. 29 of 1986, India Code (1986), *supra note 32*

⁴⁷Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, Gazette of India, Extraordinary, Part II, Section 3(i) (Sept. 24, 2008).

⁴⁸A.P. Pollution Control Board v. Prof. M.V. Nayudu (1999) 2 SCC 718:

⁴⁹Indian Council for Enviro-Legal Action v. Union of India (1996) 3 SCC 212:

38. The principle of absolute liability, the public trust doctrine, and the constitutional obligations under Article 21⁵⁰, 47⁵¹, and 48-A⁵² of the Constitution of India demands that the authorities shall not only prevent any such harm but also ensure full remediation. But in the current case, the ongoing contamination of soil, water, and air decades after the 1984 tragedy shows a clear-cut failure in statutory duties, post-disaster management, and adherence to precautionary principles as well.
39. The Union's recent waste disposal and remediation efforts, such as disposing of toxic waste at Pithampur, have themselves posed health hazards and risked further environmental degradation, pushing the public into more danger and highlighting procedural negligence, which is evident. The Indian environmental jurisprudence, backed by international environmental norms, makes it clear that the State cannot escape liability by citing corporate culpability, but rather, it is duty-bound to act decisively, competently, and in the public interest.

3.1. Constitutional Grounds for Liability

40. It is submitted that Article 21⁵³, the Right to Life, includes the right to a clean, healthy, and safe environment as upheld in *Subhash Kumar v. State of Bihar* (1991).⁵⁴ Failure to remediate persistent toxic contamination amounts to a continuing violation of Article 21⁵⁵, as already mentioned above. Article 48-A⁵⁶ mandates that the State shall protect and improve the environment. But The State's inaction and hazardous remediation methods violate the said obligation. Similarly, Article 47⁵⁷ places a duty on the State to improve public health, but the state, ignoring long-term contamination, directly breaches this responsibility, which puts not only affected public health at stake but also the environment at large.
41. The Public Trust Doctrine was recognised in *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388⁵⁸, which states that the State holds natural resources in trust for the people and must protect them against environmental harm, is exactly reversed in the case at hand.

⁵⁰Art. 21, *supra* note 18

⁵¹Art. 47, *supra* note 29

⁵²Art. 48-A, *supra* note 30

⁵³Art. 21, *supra* note 18

⁵⁴*Subhash Kumar vs State of Bihar and Ors*, 1991 (1) SCC 598, *supra* note 27

⁵⁵Art. 21, *supra* note 18

⁵⁶Art. 48-A, *supra* note 30

⁵⁷Art. 47, *supra* note 29

⁵⁸*M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388

Additionally, under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985⁵⁹. The Union assumed the exclusive right to represent victims. This statutory control heightened its duty to ensure adequate compensation, environmental restoration, and safe living conditions.

42. The Environment Protection Act, 1986⁶⁰ empowers the Government to set environmental quality standards and take preventive measures. But in contrast, the Reports by CPCB and MPPCB show that groundwater and soil samples still exceed permissible limits decades after the disaster. Yet the act of disposal of hazardous waste was attempted in Pithampur, Bhopal. Simultaneously, the Hazardous Wastes (Management and Handling) Rules also prohibit the disposal of hazardous waste in sensitive areas. Locating the Pithampur facility within the Yashwant Sagar Dam catchment violates these rules and risks contaminating Indore's water supply.
43. Instead of employing advanced, non-polluting waste treatment methods, authorities opted for incineration in a sensitive ecological zone, aggravating environmental risk, putting public health at stake.

3.2. Lapse in Post-Disaster Action and Procedural Negligence

44. It is submitted that the authorities have failed in Victim Rehabilitation. The affected area and the public have Inadequate medical facilities and monitoring for long-term health effects and the chosen strategy is a clear Faulty Disposal Strategy as the Incineration at Pithampur increases mercury exposure risk, confirmed by engineers and public health experts. The Decision was taken despite knowledge of its proximity to the Yashwant Sagar Dam. Technologies like secure landfilling in geologically stable zones, advanced chemical neutralisation, and bioremediation were available but not adopted, which might have reduced the environmental degradation with less harm to the public health at large.

3.3. International Cases for Persuasive Effect

45. In Trail Smelter Arbitration (*US v. Canada*, 1941)⁶¹ it was established that no State may allow activities within its jurisdiction to cause environmental harm to another State. By analogy, the Union must ensure no part of India's population is exposed to industrial

⁵⁹Bhopal Gas Leak Disaster (Processing of Claims) Act, No. 21 of 1985, India Code (1985).

⁶⁰The Environment (Protection) Act, No. 29 of 1986, India Code (1986), *supra* note 32

⁶¹*Trail Smelter Arbitration (United States v. Canada)*, 3 R.I.A.A. 1905 (1941).

contamination. Similarly, in the Minamata Disease Case (Japan)⁶² the Government was held responsible for failing to regulate mercury pollution; parallels with Pithampur mercury exposure are evident.

46. The Erin Brockovich Litigation (Hinkley Groundwater Contamination, US)⁶³ mentions that the regulatory negligence led to large-scale compensation and stringent remediation, contrasting with India's delayed action. These cases reinforce that the State's failure to act with due diligence makes it jointly and severally liable alongside corporate polluters.
47. Hence, the union and all other Authorities Concerned shall be made fully responsible for the long-lasting effects on the environment and people.

⁶²*Minamata Disease Case* (Japan), Supreme Court of Japan and lower court decisions (1950s–1970s)

⁶³*Anderson, et al. v. Pacific Gas and Electric Co.*, Superior Court of California, County of San Bernardino, No. BCV 00300 (settled 1996).

PRAYER

Wherefore in the light of the issues raised, arguments advanced, and authorities cited, it is humbly requested that this Honourable Court may be pleased to adjudge and declare:

1. Restrain the Respondents from continuing hazardous waste incineration at Pithampur until full compliance with environmental norms.
2. Constitute an independent expert committee to assess and report on the health and ecological impact of emissions.
3. Direct continuous air quality monitoring around Pithampur with public disclosure of data.
4. Mandate adoption of safer, non-incineration disposal methods in line with the Precautionary Principle, Polluter Pays Principle, and Article 21.

Pass any other order that it deems fit in the interest of Justice, Equity and Good Conscience.

For This Act of Kindness, The Petitioners Shall Be Duty Bound Forever Pray

All of which is respectfully submitted

S/d _____

COUNSELS FOR THE PETITIONER

TABLE OF ANNEXURE

1. Scientific and Expert Evidence – Quality Reports, Committee Reports
2. Medical records
3. Testimonies

<https://www.thechemicalengineer.com/features/why-bhopal-remains-toxic-40-years-on/>

NATIONAL GREEN TRIBUNAL conducted 7 tests and 6 failed.

GAIA told to conduct site assessment.

<https://www.sciencedirect.com/science/article/pii/S2772416622001814>

<https://pmc.ncbi.nlm.nih.gov/articles/PMC1142333/>

[View full-text article in PMC](#)

► Environ Health. 2005 May 10;4:6. doi: [10.1186/1476-069X-4-6](https://doi.org/10.1186/1476-069X-4-6) 

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Table 1.

Health effects of the Bhopal methyl isocyanate gas leak exposure [8, 30-32].

Early effects (0–6 months)	
Ocular	Chemosis, redness, watering, ulcers, photophobia
Respiratory	Distress, pulmonary edema, pneumonitis, pneumothorax.
Gastrointestinal	Persistent diarrhea, anorexia, persistent abdominal pain.
Genetic	Increased chromosomal abnormalities.
Psychological	Neuroses, anxiety states, adjustment reactions
Neurobehavioral	Impaired audio and visual memory, impaired vigilance attention and response time, Impaired reasoning and spatial ability, impaired psychomotor coordination.
Late effects (6 months onwards)	
Ocular	Persistent watering, corneal opacities, chronic conjunctivitis
Respiratory	Obstructive and restrictive airway disease, decreased lung function.
Reproductive	Increased pregnancy loss, increased infant mortality, decreased placental/fetal weight
Genetic	Increased chromosomal abnormalities
Neurobehavioral	Impaired associate learning, motor speed, precision

<https://university.open.ac.uk/research-centres/herc/blog/bhopal-2025-expanding-sacrifice-zone-pithampur>

<https://www.downtoearth.org.in/environment/supreme-court-orders-incineration-of-bhopals-toxic-waste-at-nonfunctional-treatment-facility-in-dhar-district-37952?>

<https://flickr.com/photos/44868727@N02/14119398488>



https://toxicslink.org/wp-content/uploads/2022/08/06036_Bhopal_Report.pdf

https://www.icmr.gov.in/icmrobject/custom_data/1720337800_bhopal_gas_report.pdf

[https://greentribunal.gov.in/sites/default/files/news_updates/Joint%20Committee%20Inspection%20Report%20in%20OA%20362%20of%202021%20\(R.K.%20Gupta%20Vs.%20State%20of%20MP\).pdf](https://greentribunal.gov.in/sites/default/files/news_updates/Joint%20Committee%20Inspection%20Report%20in%20OA%20362%20of%202021%20(R.K.%20Gupta%20Vs.%20State%20of%20MP).pdf)