

# Environmental Challenges and Legal Framework in Indian Perspective

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**Abstract:** Environment is necessary component in the lives of individuals but destruction of it may affect the livelihood of the general public. Although environmental laws plays essential role to protect the environment from exploitation through man-made activities. It also ensures and provides guidelines to control activities that might be useful to control harm to the environment. The laws are amended according to the problems faced by the country. The legislation and judiciary both have contributed a lot and shown their great concern about environmental laws through its important legislations and milestone judgments respectively. In this paper various legislative enactments and judgments under environmental laws with principles of environmental laws have been discussed.

**Keywords:** Environmental Activist, National Green Tribunal, Hazardous Waste

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## I. INTRODUCTION

### 1.1 Environmental Issues Faced in India

India is facing many kinds of environmental pollution problems namely air pollution, water pollution, noise pollution, disposing chemical waste improperly, leakage of harmful gases, etc.

It is well acquainted that pollutions refer to imbalance caused in the environment through the actions of humans. This imbalance can cause health-related issues in human being and in animals also. It may be initiated either by man-made activities or natural. Being an accountable human being it is essential to save the environment. Contemporary generations are mere care-takers of the future generations so it is their responsibility to maintain the earth in a proper and healthy manner. Different types of pollution and their effects on the environment are as follows.

### 1.2 Air Pollution

“Air pollution is the discharge of pollutants in the form of particles, gases, biological molecules, etc. into the air that cause harm to human health and on the environment also.” It is necessary to maintain the correct amount of gases which are present in the

atmosphere such as 21% of oxygen, 78% of nitrogen and the remaining is other gases. When there is an increase of other gases in the atmosphere it can result in global warming, acid rains, ozone layer depletion, cancer diseases, breathing issues, skin problems, asthma, etc.

For instance: Delhi is the present example of air pollution. Pollution is causing a new weather in Delhi known as smog which is a mixture of smoke (emitted from vehicles, factories and other sources) and fog. It causes serious health issues to the people living there.

### 1.3 Noise/Sound Pollution

Noise pollution is an invisible danger. We cannot see it, but it is present nevertheless, both on land and under the sea. Noise pollution refers unwanted or disturbing sound that upsets the health and well-being of human being and other organisms.

Noise pollution impacts life of millions of people on daily basis. Hearing loss is one of the most common health problem caused by high level of Noise. Exposure to loud noise can also cause heart disease high blood pressure, stress and sleep disturbances. Generally these health problems can be seen in all

age groups, but especially children who live near noisy streets and airports have been found to suffer from stress and other problems, such as weakening in memory, attention level and learning and reading skill. Noise pollution also effecting the life of wild animals and life under ocean.

#### **1.4 Water Pollution**

Contamination of water sources is known as water pollution which makes the water unworthy of use for drinking, cooking, swimming, cleaning and on the related activities. Water Pollutants may being the form chemicals, trash, bacteria, and parasites. All forms of pollution eventually make their way to water. Air pollution settles into lakes, seas and oceans. Land pollution can seep into an underground stream, then to a river, and finally to the seas and ocean. At last, waste dumped in a vacant lot can eventually pollute a water supply.

#### **1.5 Land Pollution**

Land pollution means degradation or destruction of the surface of the Earth and soil, either directly or indirectly by the act of human being by the name of development.

Land Pollution has reached up to the series condition. In recent time we have realized that negligent act of human being from last some decades caused drastic change in the composition of land. The increasing numbers of barren land plots and the decreasing numbers of forest cover are reached at an alarming ratio. The land is abused and deteriorating constantly. Pollution is caused by the solid wastes, untreated or mismanaged chemical effluents, etc.

## **II. EVOLUTION OF ENVIRONMENTAL LAWS**

### **2.1 Pre-Independence Era Environmental Law**

We noticed that environmental importance is not a new phenomenon although there are lots of evidence can be seen in pre historic and historic era. Indus valley civilization is one of the best examples of this. There ventilated houses, proper drainage system and arrangement of rooms were property arranged. During the British era some important legislation has been enacted to protect the environment some of them are as follows; Merchant Shipping Act 1858, offences that pollute the environment were included in the Indian Penal Code, 1860 and it was punishable under Chapter XIV of the code, The Fisheries Act 1897, The Bombay Smoke Nuisance Act 1912, Wild Birds and animals Protection Act 1912, Indian Forest Act, 1927

### **2.2 Post-Independence Era Environmental Law**

When our country got independence from British control, India formed many laws along with constitution. The heads, leaders and activists of the country gave more preference to the economic development and elimination of poverty for progress of the country. As a result, the constitution of India itself did not done much about the environmental aspects. In the year of 1972, during a United Nations Conference on Human Environment held at Stockholm to adopt various measures to save the environment and prevent pollution. According to conference by the amendment process, Indian Parliament added two new Articles, i.e., 48A and 51A in the Constitution of India in 1976.

- Article 48 A of constitution states that the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.
- Article 51A states that the Fundamental Duties that should be followed by the citizens. It also mentions to protect and improve the natural environment including forest, lakes, rivers and wild life, and to have compassion for living creatures.

- Apart from these two articles, the Indian constitution includes the right to clean and healthy environment under article 21.

In the year of 1972 “The National Council for Environmental Policy and Planning” was set which was later evolved into Ministry of Environment and Forests (MoEF) in 1985.

Post-independence various legislations came into force; some of them are as follows-

- The Prevention of Air and Water Pollution 1974
- The Forest Conservation Act 1980.
- The Air Prevention and Control of Pollution 1981.
- The Environmental Protection Act 1986. It came into force soon after the Bhopal Gas Tragedy.
- The Environmental Conservation Act 1989.
- The National Environmental Tribunal 1995.
- National Environmental Appellate Authority Act 1997.
- National Environment Management Act (NEMA) 1998
- Handling and Management of Hazardous Waste Rule in 1989.
- The Public Liability Insurance Act (Rules and Amendment) 1992

### **III. ROLE OF NATIONAL GREEN TRIBUNAL IN ENVIRONMENT PROTECTION IN INDIA**

National Green Tribunal was established in the year 2010 under the article 21 of Indian Constitution. Article 21 guarantees to provide healthy environment to citizen of India. After Australia and New Zealand, India is the third country to have such system. The National Green tribunal is a special fast-track quasi-judicial body comprising of environment experts and Judges, who will ensure expeditious disposal of environmental cases.

In the case of M. C. Mehta v. Union of India, it has been observed that Environment Courts must be established for speedy disposal of case related to environmental pollution and reiterated it time and again. As a result to it the National Environment Tribunal Act, 1995 and National Environment Appellate Authority Act, 1997 were passed by the Parliament of India. But both the Act proves non-effective so there was again a growing demand that some legislation must be passed to deal with environmental cases with more efficiency. Ultimately Parliament of India Passed the National Green Tribunal Act, 2010 to handle all the cases relating to environmental issues.

Justice Lokeshwar Singh Pantia became the first Chairman of National Green Tribunal (NGT) on 18th October 2010. Presently Justice Adarsh Kumar Goel is the chairman of NGT.

Procedure for filing an Application or Appeal: There is also a very simple procedure to file an application to the National Green Tribunal seeking compensation for environmental damage. The party, who is not satisfied with the decision of tribunal can file an appeal before appellate tribunal against an order or any decision of the Government.

Compensation can be claim to the victims of pollution and environmental damages which includes accidents with hazardous substances, Restitution of damaged property, Restitution of particular areas that are determined by Green Tribunals. The limitation period to file an application is five years from the date on which the cause of action arose.

#### **Jurisdiction of the National Tribunal**

The National Green Tribunal has jurisdiction on all civil cases regarding environmental matters and issues that are linked to the implementation of laws listed in Schedule I of the NATIONAL GREEN TRIBUNAL Act. Some of them are, The Forest ( Conservation ) Act 1980, The Air ( Prevention and Control of Pollution) Act 1981, The Environment

(Protection) Act 1991, The Water (Prevention and Control of Pollution) Act 1947, The Public Liability Insurance Act 1991, The Biological Diversity Act, 2002

Review provisions are also available under National Green Tribunal Act, An NGT Order can also be challenged before the Supreme Court within ninety days. Sometimes we can see confliction between National Green Tribunal and High Courts related the jurisdiction of appeals. According to National Green Tribunal Act, Appeals from NGT can be filed to the Supreme Court. but a division bench of the Madras High Court in February 2014 held that high courts do have jurisdiction to entertain appeals against the orders of the NGT under Article 226/227 of the Constitution of India.

**Vellore Citizens Welfare Forum v. Union of India** AIR 1996 SC 2715: (1996) 5 SCC 647 In this case Vellore Citizens Welfare Forum, filed a Public Interest Litigation under article 32 of Constitution of India, against the large-scale pollution caused to Palar river due to the discharge of untreated effluents by the tanneries and other industries in the State of Tamil Nadu. The water of Palarriver is the main source of drinking and bathing water for the surrounding area. The Court considered that in India such Tanneries are the huge foreign exchange earner and simultaneously providing employment to several thousands of people. But at the same time, it destroys the environment and poses a health hazard to everyone. The court delivered judgment in favor of petitioners and directed all the Tanneries to deposit fine in the office of Collector. The Court also directed the State of Tamil Nadu to award Mr. M. C. Mehta as appreciation towards his efforts for protection of Environment. Supreme Court also emphasized on the constitution of Green Benches in India dealing particularly matters relating to environment protection and also for speedy and expeditious disposal of environmental cases.

**M. C. Mehta v. Union of India (Ganga River Pollution Case)** (1997) 2 SCC 353

This is PIL filed by the Mr. M. C. Mehta, it was observed by the Supreme Court that water of Ganga River was highly toxic near Kanpur city because the in the near area Tanneries were discharging their untreated effluents directly into the River. Also, nine nallahs were discharging sewage effluents and sludge into the same. The worst part was that dead bodies and half-burnt bodies were also been thrown into the Ganga river. Also, It was observed that the water supply and sanitary conditions in the whole city was not adequate and not up to the marks of a normal city. The court observed that the contents of iron and manganese were higher from the ISI limits of river water which was found to be very harmful for consumption. Supreme Court ordered the Tanneries to install pre-treatment machineries for trade effluents. The Supreme Court held the Kanpur Maha Nagar Palika liable and also passed several direction for the PCA (Prevention, Control and Abatement) of pollution of River Ganga

**Rural Litigation Entitlement Kendra (RLEK) v. Union of India** AIR 1988 SC 2187

This was the first environmental PIL in India. RLEK, wrote a letter directly to Supreme Court which disclosed the unauthorized and illegal mining activities carried in the entire stretch of Doon Valley. Reduction in the Green Belt was seen from 70% to 10%. The reason was reckless mining operations, careless disposal of mine debris and unregulated blasting operations which disturbed the natural water systems and hinder the supply of water for drinking and irrigation purposes went down. It also has been observed that the quarrying operations destroyed the shelters of many migratory birds and compelled the residents of that area to shift other place from there. The Supreme Court acted promptly and prohibited the mining operations to determine if the mines were operated with the full safety standards. The Supreme Court also appointed the Bhargava Committee. On the recommendations of the Bhargava Committee, the Supreme court ordered that these operation in such an ecologically sensitive area has to be immediately stopped. The court further observed that preservation

of ecology is not only a task of the States but here also the Citizens must undertake u/A 51 A (g) of Indian Constitution. The court directed the State to pay compensation to RLEK for their efforts and take steps towards restoration of the ecology.

#### IV. CONCLUSION

It is evident that we are facing great challenge to overcome the problem concerning environmental pollution. An increasing barrage of the legislation accompanied by awareness of public is needed. Judiciary is performing as an activist to save the environment. State must enforce its policies in the effective way as all three pillars have an importance role for the seek of pollution free environment.

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