

Role of Law In Protection and Promotion of Environment in India : A Preliminary Study

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ABSTRACT

All human beings are entitled for healthy and pollution free environment. every nation have take efforts through various legislations for recognition of this right. The first step towards protection and promotion of environment started with the Stockholm Conference on Human Environment in 1972. This conference consider as Magnacarta for all Environmental legislation in India. The Constitution of India also includes provisions for protection of environment. It cast Duties on both individual and state to protect environment and also to take efforts for promotion of environment. The Indian judiciary also played important role in environmental protection through its various judgments. The new principles were laid down by the judiciary while interpreting the provisions of the constitution, such as Polluter pay principle, Precautionary Principle, Environmental Impact Assessment and so on. With the growth of Industrial development this principle plays vital role in protection of Environment. In India various legislations was made to protect and to promote environment This paper deals with study of various environmental protection legislations and various policies such as environmental laws related with protection of environment, role of Indian judiciary in protection and promotion of environmental laws.

Keywords: Magnacarta, Environmental legislation, Environment Protection

I. INTRODUCTION

LEGAL CONCEPT OF ENVIRONMENT:-

The study of environmental legislation starts from the important question that is what is Environment .The concept of environment is very wide concept and difficult to define. In its general meaning it relates to the surrounding. Under the Environment Protection Act 1986 the concept of environment was defined. This definition is inclusive in nature. Section 2(a) of the act .According to this act Environment” includes water, air and land and the interrelationship that exists among and between water, air and human beings, other living creatures, plants, micro-organism and property”.

Generally environment laws deals with the environment their protection, promotion, and inter relationship with human being with other. This legislation cast duty on human being to maintain this relationship with environment at proper level by balancing both Economic and Ecological development. All this refers to the principal of sustainable development and key element in protection and promotion of environment.

LEGISLATIONS IN INDIA

- 1) The Water(prevention and control of pollution)Act 1974
- 2) The Air(prevention and control of pollution)Act 1981

- 3) The Environmental protection act 1986
- 4) The Disaster Management Act 2005
- 5) The Green Tribunal Act 2010
- 6) The Wild Life Conservation Act 1972

The Forest Conservation Act 1980

1) **The Water (prevention and control of pollution) Act 1974**

This act came into force in the year 1974 for the purpose of prevention and control of pollution of water and maintain or restoring the wholesomeness of water. The rapid growth of Industrialization and Urbanization is the main cause of water pollution. To control this water act came into force. The Water act cast obligations on the part of industries and local bodies to obtain the prior consent to establish and operate Industry for new discharge of sewage and trade effluent. This act also established various boards to controlled water pollution such as,

- a) Central pollution Control Board
- b) State Pollution Control Board

2) **The Air (prevention and control of pollution) Act 1981**

This Act was enacted on the same lines of Water act 1974. The unique features of the act is that in include Noise within the definition of Air pollution and also include the provisions for Air Pollution Control Zone. The Central and State boards constituted under the Water act which perform the same function under the Air Act 1981

3) **The Environment Protection Act 1986**

The Environment Protection Act 1986 is an act of Parliament of India. The Government of India enacted this act to implement the decisions of the United Nations Conference on the Human Environment held at Stockholm in 1972. The Act is a general legislation on protection and improvement of human environment. Under this act the Central Government may constitute authorities such as Central and State authorities as like Central Pollution Control Board and State Pollution Control Board for

implementing legislation relating to prevention and control of environmental pollution

4) **The Disaster Management Act, 2005**

The Disaster Management Act 2005 was passed by the Parliament of India in the year 2005. The Act provides for "the effective management of disaster and for matters connected there with or incidental thereto". This act establishes various authorities for the effective management natural calamities like disaster. The authorities such as

- a) National Authority (section 3)
- b) National Executive Committee (section 8)
- c) State Disaster Management Authority (section 14)
- d) District Disaster Management Authority (section 25)
- e) National Disaster Response Force (NDRF) (section 44-45)

5) **The National Green Tribunals Act 2010**

The National Green Tribunal Act (NGT) was enacted by the parliament in the year 2010 to establish the special tribunals to resolve the speedy disposal of Environment cases or various issues pertaining to protection and promotion of environment. This act provides jurisdiction to Green Tribunal to deals with all matters related to environment protection and also cast obligations to provide speedy justice in environmental matters. The establishment of this Green Tribunals will reduce the burden of cases of the superior courts, such as Supreme Courts. This Tribunals follow flexible procedure as compare to other courts such as they are not abide to follow strict procedure of CPC and Evidence Act, but they should follow the principle of Natural Justice.

6) **The Wild Life Conservation Act 1972**

The Wild Life Protection Act 1972 is an act of Parliament of India enacted for the protection of plants and animal species. This act prohibits capturing, killing, poisoning, or trapping of wild animal. This act also prohibits hunting of wild animal. According to this act Hunting includes. (Section 2) "capturing, killing, poisoning, snaring, or trapping any wild animal, and every attempt to do so,

driving any wild animal for any of the purpose specified in sub clause, injuring, destroying or taking any body part or any such animal ,or in the case of wild birds, or reptiles, disturbing or damaging the eggs or nests of such birds or reptiles.”

The implementation of the act carried out with the help of authorities like

- a) The Police
- b) The Central Bureau of Investigation
- c) The Forest Department
- d) The Custom

7) The Forest (Conservation)Act 1980

The Forest Conservation Act 1980 an Act of the Parliament of India enacted with the intention to provide the conservation of forest and to control deforestation of forest areas in India. This act impose restriction upon the state government for making any order to change the Forest land into Non- forest land.(section 2).according to this act the central government having power to constitute an advisory committee.

The Role of Judiciary in Protection of Environment

In India the judiciary plays a vital role in conservation of environment through its Judicial Decisions. In various environmental cases, the Supreme Court of India gives new dimensions and interpretation to fundamental rights under Article 21 of the constitution. In the case of *Subhash Kumar V. State of Bihar (1991)1SCC598* ,the Supreme Court of India held that right to live is a fundamental right under Article 21 of the constitution and it includes the right to enjoy pollution free environment for healthy life. The Supreme Court of India in its judgment *Vellore Citizens' Welfare Forum V. Union of India (1995)5SCC 647* reiterated the need for creating the Environmental Courts in India.

In various Public Interest Litigations by way of Judicial Activism the new principles was evolved by

the judiciary which cast duty not only on the individual but also on State for protection and promotion of environment .In the case of Indian Council For *Enviro -Legal Action V. Union (1996)3SCC212* Of India the Supreme Court Of India evolved the " precautionary principle and polluter pay principle" In the case of *Vellore Citizens' Welfare Forum V. Union Of India (1995)5SCC 647* The court express that "precautionary principle " and the "polluter pay principle" are essential principles of sustainable development and that have to be accepted as part of law of the land and consider as a part of the environmental law of the country.

II. CONCLUSION

The Environmental Protection legislations plays vital role in protection and promotion of environment, but it is not the ultimate solution to save the environment unless the individual consider saving the environment as his own responsibility. We all have to come together to save the environment for survival of present and future generation.

III. REFERENCES

- [1]. Dr. P. S. Jaswal, Dr. Nishtha Jaswal, Environmental Law, Allahabad Law Agency, Faridabad (Hariyana) Ed.2014
- [2]. P. Leelakrishnan, Environmental Law Case Book, LexisNexis Butterworths.Ed.2006
- [3]. Dr. H. N. Tiwari, Environmental Law, Allahabad Law Agency, , Faridabad (Hariyana), Ed.2006

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