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Article 14 of The Constitution of India and Protection of Environment

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ABSTRACT

The Indian Constitution and global declarations prioritize the right to equality in environmental issues. Article 14 provides protection against arbitrary state action, guaranteeing equality before the law. It ensures that discriminatory behaviour is prohibited, and there is fairness and predictability in the administration of the law. The rule of law requires governmental discretion to be bounded by set limits, ensuring transparency and accountability. The recent landmark ruling in M.K. Ranjitsinh v. Union of India acknowledges a constitutional right to be safe from the negative effects of climate change, based on Articles 21 and 14. This reflects an evolving legal framework that combines environmental protection with fundamental rights.

Keywords: *article 14, environmental protection, equality before law, climate change jurisprudence.*

I. INTRODUCTION

The Indian Constitution ensures the "right to equality" for everyone without any discrimination, and that means that no state action with regard to the environment shall encroach on the right to equality as defined under fundamental rights that are ensured under the Indian Constitution.²

This principle of equality in environmental management was also understood by the Stockholm Declaration of 1972 and asked all nations of the world to follow this (Principle 1).³

Indian courts, on several occasions, have invalidated arbitrary official actions in environmental issues on the grounds that they were against Article 14. At times, indiscriminate operation of mines and arbitrary leasing out may endanger the wildlife and natural resources of the country. It has also been very explicitly stated that where arbitrariness and perversion are present, the court has no choice but to issue writs to promote public interest and prevent public mischief, which are overriding considerations.

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² The Constitution of India, 1950, A. 14.

³ United Nations Conference on the Human Environment, *Stockholm Declaration*, U.N. Doc. A/CONF.48/14/Rev.1, (June 16, 1972).

In *Kisan Bhagwan Gawali v. State of Maharashtra*,⁴ Court held that to exclude a specific class of grazers from consideration and include some on the basis that the excluded class was indulging in illegal grazing is violative of Article 14 and invalid. Such a policy decision is contrary to the right to equality.

The Gujarat High Court held that restrictions on the operation and trade of melting gold and silver ornaments by operating furnaces, thereby being a nuisance, are not arbitrary and violative of Article 14 of the Constitution.⁵

It has rightly been noted that ideas of social justice and equality go hand in hand and pragmatic content of the right to life.⁶

II. RIGHT TO EQUALITY AND PROTECTION OF ENVIRONMENT: JUDICIAL APPROACH

Article 14 of the Indian Constitution states, The State shall not deny to any person equality before the law or equal protection of the laws within the territory of India.

The right to equality under Article 14, inter alia, goes against "arbitrariness" of any governmental action 'because an arbitrary action must necessarily involve a negation of equality.' Indeed, "equality and arbitrariness are sworn enemies".⁷ The doctrine of "non-arbitrariness" permeates Article 14 like a "brooding omnipresence." Wherever there is arbitrariness in State action, whether legislative or executive or of power under Article 12, article 14 forthwith comes into play and strikes down the action.

Lack of arbitrary power is the first requirement of the rule of law on which our constitutional system rests. In a rule of law system, discretion, when granted to execution Authorities, must be contained within prescribed bounds. From this perspective, the rule of law implies that decisions should be made by applying identifiable principles and rules. Generally speaking, such decisions should be foreseeable, and the citizen should have an idea of where he is. Non-arbitrariness is an essential corollary of the rule of law and is, in essence, fair play in action. It is therefore well established that action of every State, in order to live, must not be open to the vice of arbitrariness, which is the substratum of Article 14 of the Constitution⁸ and essential to the rule of law.

With the above-enlarged meaning of the right to equality, article 14 is typically invoked in urban

⁴ *Kisan Bhagwan Gawali v. State of Maharashtra*, M.A.N.U./M.H./0045/1990.

⁵ *D.S. Rana v. Ahmedabad Municipal Corporation*, M.A.N.U./G.J./0146/1999.

⁶ Satish C. Shastri, ENVIRONMENTAL LAW, 5th Edition (2002).

⁷ *Lok Prahari through its General Secretary v. State of Uttar Pradesh*, M.A.N.U./S.C./0507/2018.

⁸ *State of Manipur v. Y. Token Singh*, M.A.N.U./S.C./7132/2007.

planning where construction permission is allowed by the authorities arbitrarily under its discretionary powers without assessing public interest and without application of mind and taking into account the environmental aspect.⁹

A good example is *Bangalore Medical Trust v. B.S. Muddappa*,¹⁰ where the Supreme Court prevented the proposal to convert a public park land into a nursing home. The brief facts of this case were that:

The City Improvement Board of Bangalore had drawn up the scheme for development to expand the city of Bangalore. According to the scheme, a portion was reserved for development as a low-level park. Later, on the instructions of the state's Chief minister, the land reserved for laying a park was changed to a civic amenity plot where the hospital was to be built by the appellant. Upon noticing the construction work, the residents petitioned the High Court, which granted the petition. The appellant appeared in an appeal before the Supreme Court, arguing, inter alia, that the choice to allocate a site for a hospital instead of a park is a decision within the discretion of the development authority. Therefore, the diversion of the use of the land for that purpose is reasonable under the Act. It was also urged that even assuming the conversion of the site suffered from any infirmity, procedural or substantive, the High Court ought to have withheld itself from exerting its extraordinary jurisdiction under Article 226 of the Constitution.

The Supreme Court rejected the appeal with costs and emphasized the significance of public parks and open space in urban development in the following words:

"Protection of the environment, open spaces for recreation and fresh air, Playgrounds for children, promenades for the residents, and other Conveniences or amenities are issues of considerable public concern and living interest to be attended to in a development scheme." The public interest in keeping open spaces reserved and preserved for parks and playgrounds cannot be yielded to by leasing or selling such lands to Private individuals for use as some other user. It would be in conflict with the constitutional mandate."

R.M. Sahia, J., in his concurring judgment, noted:

"Public parks are areas reserved for recreation and beauty. They are linked to the development of the idea of equality and acceptance of the value of the commoner. They constitute a 'gift from people to themselves'. Its value has increased with focus on the environment and pollution."

Denying the request of discretion of the authority to use the area of public park as the site of the

⁹ Paramjit S. Jaswal *et. AL.*, (eds.), ENVIRONMENTAL LAW (2021).

¹⁰ *Bangalore Medical Trust v. B.S. Muddappa*, M.A.N.U./S.C./0426/1991.

hospital, the Court noted:

The administrative or the executive authority cannot turn a blind eye to the fact that in a democratic arrangement, the community or the people, being the sovereign, the exercise of discretion should be subject to the underlying philosophy that the person exercising discretion is responsible for his act. It is to be tried on the anvil of rule of law and justice or equity, primarily if the interest, which is in conflict, of members of society is concerned.

The Court also emphasized that—"discretion is an effective tool of administration". It must be used objectively, rationally, intelligibly, and moderately while impacting public interests, and authority cannot act arbitrarily or whimsically. It must not be exercised in undue haste, ignoring the procedure as well.

Consequently, it was held that the action of choosing at the behest of the Chief Minister of the State to divert an open land reserved under the scheme for the purpose of a public park into a place for the construction of a hospital and to lease the place to a private individual or group of individuals for the purpose was vitiated by lack of application of mind and was arbitrary and therefore ultra vires and violative of article 14 of the Constitution.

In *D.D. Vyas v. Ghaziabad Development Authority*, the complaint of the petitioner was that respondents had not done anything to develop the open space reserved for the park. However, respondents were playing wait-and-watch to make out plots in the scheme for such open space for public parks and alienate the same with a view to making enormous profits.

The Allahabad High Court adopted the Supreme Court dictum in *Bangalore Medical Trust*. It ruled that the State or the authority was not competent to alter the plan to such an extent as to eradicate its integral aspect, namely, permitting open spaces for the conversion of public parks. The Court granted a mandamus writ and ordered development of the park within a reasonable time that would not take over one year. The Court opined that the respondents, by not developing the park, have been grossly negligent in fulfilling their very basic obligation under articles 51-A(g) and 51-A(j), and they have negated all the State's cherished expectations, a citizen in terms of article 48-A of the Constitution.

In *Dr. G.N. Khajuria v. Delhi Development Authority*, residential area land reserved for an ark was occupied by the DDA in allotting the same for a nursery school. The Court held that the allotment constituted misuse of power and illegal and thus liable to be cancelled. The Court further directed that construction erected under illegal orders be demolished and the statutory body officer who instigated the illegal action be punished as per the law.

In *Sushila Saw Mill v. State of Orissa*, the Supreme Court held that a complete prohibition on

sawmill business or sawing operation within the prohibited 14-being area of neither reserved arbitrary or protected nor unreasonable forest is not nor violative discriminatory. Of, inter alia, article 14 is neither arbitrary nor unreasonable nor discriminatory. The Court further held that it was a class legislation as the whole area in the prohibited zone was dealt with as a class vis-à-vis other area. Hence, the prohibition of a sawmill located in the district, which was part of the prohibited area, cannot be regarded as discriminatory on the basis of the geographical contiguity of the district. The Orissa Saw Mills & Saw Pits (Control) Act 1991 was legislated to control the setting up and working of sawmills, saw pits, and sawing trade for the purpose of safeguarding and preserving forests and the environment and for other purposes. This case encircles this law since it came before the Supreme Court of India in regard with shutting down of the Petitioner's mill with immediate effect since it seemed to be covering forest lands due to its presence within it. The Petitioner argued that the aforesaid legislation is not imposing an absolute prohibition on mills, and if such a situation arises, then that will be violating the Petitioner's basic Right to Carry on Trade and Business and will be discriminating the Petitioner's mill against other mills in and around the district hence will be in violation of Article 14 of the Constitution. The findings of the Apex Court in rejecting the said petition have been presented hereunder:

1. Forest conservation is a subject of public concern; hence, it will be an exceptional case requiring a complete legislative prohibition. The Orissa Saw Mills & Saw Pits (Control) Act 1991 completely prohibited sawing activities within the restricted area. Therefore, the legislation makes it clear that it intends to enact a complete prohibition, which is discovered to be in the public interest.

2. The Court took into account that the Petitioner's Mill, which was located in the area prohibited, was subject to the legislative requirement that the whole area within the prohibited zone would be considered a class against the other area.

Thus, where the boundaries of such a district fall within the reserved or protected zone of the forest area, etc., it amounts to a legislative plan to facilitate the achievement of the legislative intent in the interest of the public to conserve forest wealth and environment, thus stifling the growth of forests. Thus, the statute in question was to be considered class legislation. Therefore, it could not be interpreted as discriminatory and a violation of Article 14 of the Constitution. The Court has also applied Article 14 in support of government policy in certain cases.

For instance, in the *Kholamuhana Primary Fishermen Co-Op. Society v. State of Orissa*,¹¹ the

¹¹ *Kholamuhana Primary Fishermen Co-operative Society v. State of Orissa*, M.A.N.U./O.R./0039/1994.

government had formulated a policy for fishing in Chilka Lake to safeguard fishermen's traditional rights. The Court held that the policy was neither arbitrary nor ambiguous and thus not violative of Article 14 of the Constitution. But the Court noted that following intensive and extensive prawn culture in order to earn "prawn dollars" while ignoring ecology was unjustified. The Court has also invalidated the action of the authorities if taken arbitrarily.

For instance, in *Mandu Distilleries Pvt. Ltd. v. M.P. Pradushan Niwaran Mandal*,¹² Pollution Control Board had ordered the shutdown of production by the industry since it was polluting water. But the Court discovered a gross defect in the decision-making process". The decision was arbitrarily made and arbitrarily on extraneous consideration. Grounds mentioned in show cause notices and the rationale of Orders were not identical. There was also the disregard of natural justice principles and consequent contravention of inherent procedural protections. The Court invalidated the order made by the Board as offensive to Article 14 of the Constitution. In *Ivory Traders v. Union of India*,¹³ the Delhi High Court rationalized the prohibition against doing business in species on the brink of extinction.

The Court ruled that the prohibition on trade in imported ivory and items manufactured from that region is not violative of Article 14 of the Constitution and is free from arbitrariness—any of the mala fides, i.e., unreasonableness, unfairness and In *Moulana Mufti Syed Md. Noorur Rehman Barkati v. State of West Bengal*,¹⁴ the Court held that where it had imposed restrictions on the use of microphones, the Central Pollution Control Board and the State Pollution Control Board were required to implement them. Just because no such former restriction had been imposed in other regions of India and the basic right under article 19(1)(a) was applied stringently in the State of West Bengal, and it was not applied in other regions of India that does not constitute any case of any discrimination under article 14 of the Constitution. Article 14 can also be invoked to contest government action, where arbitrarily permission to mine and pursue other activities of high environmental concern is accorded.

In *Kinkri Devi v. State Of Himachal Pradesh*,¹⁵ in the present case the petitioners requested the cancellation of the mining lease agreement for the limestone diggings as it threatened the adjacent land, water sources, pastures, flora and fauna, and environment.

They also asserted damages to be compensated. Judgment- The High Court ruled that both the State and the citizens have a fundamental duty to preserve the environment, as well as endeavor

¹² *Mandu Distilleries Pvt. Ltd. v. Madhya Pradesh Pradushan Niwaran Mandal, Bhopal*, M.A.N.U./M.P./0009/1995.

¹³ *Ivory Traders and Manufacturers Association v. Union of India*, M.A.N.U./D.E./0043/1997.

¹⁴ *Moulana Mufti Syed Md. Noorur Rehman Barkati v. State of West Bengal*, M.A.N.U./W.B./0211/1998.

¹⁵ *Kinkri Devi v. State Of Himachal Pradesh*, I.L.R. 4 (Him.) 243 (1987).

to improve it, as well as protect the nation's forests, foliage, wildlife, watercourses, reservoirs, and other natural resources. Disregarding the directive or not complying with the obligation is against the basic law, which State and each individual must protect and enforce. Right To Equality and Environmental Protection- Article 14 of the constitution assures each and every individual equal protection of law and equality before law. The State cannot contravene Article 14 because this inherent right and freedom necessarily implies an obligation on the part of the State to act reasonably in regard to ecological conservation efforts. The judicial system has been a strict one in preventing unwarranted penalties in cases where discretionary powers exercised by state officials. The Supreme Court in *Maneka Gandhi v. Union of India*,¹⁶ construed the phrase 'procedure established by law' to imply that the procedure should be fair, just and reasonable.

Following this interpretation, along with judicial activism, numerous rights have come to be encompassed in the purview of Article 21. Recently, Article 21, whose potential was never unravelled earlier, was finally pulled out of its deep slumber and utilized to create social justice, which is one of the objectives to be achieved by the Constitution. Liberal judicial pronouncements in life and personal freedom have thrown open new horizons in the Indian Constitutional Law. Article 21, interpreted in conjunction with Articles 14 and 19, can turn out to be a replacement for all other basic rights. It has come to be understood as a bundle of rights. With the liberal interpretation of the "life" and "personal liberty" of the term, the right to live in a clean and unspoiled environment has been considered to be included in a fundamental right under Article 21. The pragmatic approach of the Supreme Court, such as the inclusion of the right to a clean environment in Article 21, has been elaborated in the subsequent sections. In *General Public of Saproon Valley v. State of H.P.*,¹⁷ the Court directed the State to achieve a balance between utilization of natural resources for socio-economic development needs and preservation of the ecology through long term planning and such adaptive steps.

The Court further held that if the State does not provide and enforce its obligations towards the environment, then it would be a violation of fundamental rights provided by the Article 14 and 21 of the Constitution. In *Obayya Pujari v. Karnataka State Pollution Control Board*,¹⁸ in this matter the Karnataka High Court gave direction for shutting down stone crushing unit because it was creating pollution. It held that reasonable restrictions can always be placed on the right

¹⁶ *Maneka Gandhi v. Union of India*, M.A.N.U./S.C./0133/1978.

¹⁷ *General Public of Saproon Valley v. State of Himachal Pradesh*, M.A.N.U./H.P./0011/1993.

¹⁸ *Obayya Pujari v. The Member Secretary, Karnataka State Pollution Control Board, Bangalore*, M.A.N.U./K.A./0273/1999.

to profession trade or business where wellbeing and safety of the public at large is concerned.

III. THE SUPREME COURT OF INDIA'S RECOGNIZE NEW CONSTITUTIONAL CLIMATE RIGHT

The Supreme Court of India rendered a landmark verdict on climate change and human rights in *M.K. Ranjitsinh and Others v. Union of India*,¹⁹ dated March 21, 2024. A three-judge bench of the Supreme Court, headed by Chief Justice D.Y. Chandrachud, enunciated a new right based on the constitution to be climate change-free by relying on Article 21 (the constitutionally guaranteed right to life and personal liberty) and Article 14 (the constitutionally guaranteed right to equality) of the Indian Constitution. The court has announced a new constitutional right to be free from the negative impacts of climate change, linked this new right to the right to a clean and healthy environment read into the Constitution by previous judicial rulings, and has explained that the roots of this new right go back to the right to life and the right to equality enshrined in the Constitution. The judgement also adopts a recognition-based framework of climate justice in observing the ways in which particular groups of individuals, like indigenous, tribal, and forest-dwelling communities, women, poor families, and the people of coastal areas (the Lakshadweep islands, e.g.) are especially (and non-equally) vulnerable to the effects of climate change.

This ruling is of great significance not only for giving expression to the right against the harmful effects of climate change to the world's most populous nation, and one which is subject to very immediate and substantial impacts of climate change, but also for securely grounding this new right firmly within the nation's constitutional law.

India's rich jurisprudence of the environment has a strong foundation upon which climate change issues may be taken to court, and not surprisingly India's constitutionally established fundamental rights shape the path of climate litigation in India as with other Global South jurisdictions. Yet to date, such attempts at confronting climate change have tended to avoid direct climate change framing, a "stealthy" approach typical of Global South jurisdictions, driven in part by a preference to use proven legal arguments in order to maximize the likelihood of success. One writer, in 2020 and commenting on India's climate litigation judgments, had believed that "climate change is likely to remain a peripheral, if an important, issue in most cases raising and dealing with more "mainstream" environmental issues."

When a nine-year-old petitioner, Ridhima Pandey, made an approach in 2017 to the National

¹⁹ *M.K. Ranjitsinh v. Union of India*, M.A.N.U./S.C./0274/2024.

Green Tribunal (NGT) of India in order to move for the coverage of climate change-related issues in the Environmental Impact Assessment (EIA) apparatus, her earnestly researched and well-considered petition in 2019 was disposed off by the NGT in an extremely disappointing succinct two-page order that had nothing more than some routine observations upon the focus of the petition as well as on the applicability of climate change. The NGT reached the very flawed decision that "[t]here is no reason to presume that the Paris Agreement and other international protocols are not reflected in the policies of the Government of India or are not taken into consideration in granting environment clearances."

This, however, contrasts with the Supreme Court in *M.K. Ranjitsinh* went out of its way to engage intensively with climate change in the Indian context: the uneven adaptive capacities and climate change-related vulnerabilities in the country, India's international obligations for guarding against harmful impacts of climate change, and the prevailing climate change litigation environment in other jurisdictions around the world. This historic and welcome turn of events probably heralds the arrival of a new era of climate-informed rights litigation in India. The ruling considers other jurisdictions' developments in climate litigation and has a somewhat opaque observation, "these cases, all initiated and resolved during the previous decade, signify the character of issues that will find its way to courts within the subsequent several years (Paragraph 50)." With an adequate civil society mobilization, sequel strategic litigation, and the like facilitation conditions, this and other consequential rights-enhancing judgements relating to climate change need not remain merely an illusory aspiration. They could consider contributing to an ongoing (climate) rights revolution in India.

Unlike framework cases of climate litigation in the Global North (most prominently in the EU), which draw on the available legal framework of climate legislation and appeal to judicial action for even greater climate ambition, in the form of lowered emissions, climate litigation in India cannot yet take hold on top-down bureaucratic climate legislation, as that is not available.

This legislative vacuum finds acknowledgement in the judgement, with the bench observing:

"Notwithstanding government policy and regulations and rules and laws acknowledging the negative impacts of climate change and attempting to fight it, there is no umbrella or single legislation in India concerning climate change and the related issues. But this does not imply that the citizens of India do not have a right against the negative impacts of climate change" (Paragraph 19).

IV. CONCLUSION

To conclude, Article 21 of the Indian Constitution is a powerful tool for protection of the

environment guaranteeing the right to life and liberty of persons. On the basis of Article 21, the courts have persistently construed the right to a clean and healthy environment as part of the right to life. But to make environmental protection under Article 21 more robust, it is necessary to make further use of Article 14, which ensures equality before the law and equal protection of laws. By providing fair access to environmental resources and implementing environmental laws without bias, Article 14 can be an effective tool for protecting the environment for current and future generations. In the future, appropriate enforcement of environmental legislation, increased public awareness, and proactive efforts to tackle environmental injustices will be important in maintaining environmental protection under Article 14 of the Indian Constitution.
