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Environment Laws and Policies in India

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ABSTRACT

We all know that in this leading world we all, are going towards the direction of development. We only focusing on the development of our society, but we also need to remind that our society also consist of our environment. In the development of our society the environment plays an important role as it's like we are incomplete without the environment. But the people are totally unaware about the drastic conditions which our environment is facing We need to be focus on the awareness to save the environment The environment is something which consist of the surrounding or region that should not get disturbed by the activities of the humans or the activities of humans does not affect the nature and environment. Many steps are taken by the people to protect the environment but those are not sufficient. Some steps are also taken by the law of our country but people are still unaware about it and take them very lightly. The law needs to be strict with this issue. The effective and efficient measures should be taken by law as well as public for the proper execution of constitutional mandates and the legislation of environmental law. The steps are taken to reduce the degradation of environment like Pollution board control. National Green Tribunal, Water service Authorities etc., came up to keep check on environment. The main purpose is that there should be sustainability with nature and the balance between nature and man should always be there.

Keywords – Environment, Sustainability, Land pollution, Air pollution, Water pollution, law and acts, Awareness, Sustainable development.

I. INTRODUCTION

We all are familiar with the word 'Environment'. The one of the basis for our life which provides each and everything to support your living and lifestyle. The environment comprises of the place where all the living and on living creatures and things live together by supporting each other. Both the things supports and help each other to grow and develop. Environment is a combination of biotic and a biotic factors i.e. combination of water, sun, temperature, various atmospheric gases with all living species and form a possible climate to survive. With the change of time the environment also changes, the weather and climate also changes, and

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different organism adapts that changes for their living while some organisms do not have tendency to adapt the changes and survive in different temperature. There is physical environment as well as biological environment, physical environment is land, water, air, atmosphere and biological environment consist of animal, plant and other living creature on earth. Both of them are dependent. But with the increase of time the environment started to get deteriorate.

The growth on industries and human population in India is leading to serious harm to nature. Although the country is having various laws to protect our environment but due to the lack of awareness, fund and bodies the proper implementations not going on and thus the aim to protect the nature and environment is not going on smoothly. We need to understand that we can't sacrifice our nature for our development.

Here we are going to discuss about the different laws of India to protect and the environment by improving and preserving the environment.

(A) Review of Literature

The research paper focus on how the *ENVIRONMENT LAWS AND POLICIES IN INDIA WORKS*. What are the functions of the environmental law? The paper will focus on different areas of laws. What's are the pollutants. The agents of the environmental pollution in form of gases. Liquid or solid which effects the environmental process can be termed as environmental pollutants.

We will also study about the different actions the government have taken to protect it. How different acts and policies were introduced. The upliftment of different acts like water act, environment protection act, the air act and many more. The researcher also discussed about the famous case laws of the environmental law. The researcher have focused on the major part of the environmental law in India

(B) Research Methodology

This study has been conducted by using secondary sources such as existing research paper, articles, journal articles, etc. to gather information and explain concepts for this topic. Nothing is plagiarized and credit has been given in references to the authors from whom information was collected. The research done is descriptive and the knowledge is gain with various resources on the *ENVIRONMENT LAWS AND POLICIES IN INDIA*

In this paper, researcher has used various method of studies with descriptive study and data. The data and information which is used in the paper is drawn from reliable and creditable

resources such as related books by various authors, related research papers, the economic reforms, various journals and articles available on online and offline mode.

(C) Research Questions

The research paper will contain following questions to be identify by the researcher -

- What are the environmental law and the policies in India?
- What are the environmental pollutants
- What are the constitutional and legislative measures taken by our country?
- What are the different acts to protect the environment?

(D) Research Objective

The main objective of this paper are as follow –

- To understand how the environment law and policies works in India
- To have known how things are going against our environment
- To get knowledge about the steps our government is taking to save the people from nature
- To understand how people can contribute to save our nature
- To see how different acts formed by government is working.

(E) Hypotheses

The proposed hypothesis for this research paper is to understand about the environmental laws and policies in India. As the environment is the most important part of our life and people are degrading it day by day. So there is a need to save it and take some action to protect it. We will focus on different acts, policies and case laws regarding the environmental law in this research paper. The paper will provide full knowledge about the Environmental law.

II. WHAT ARE ENVIRONMENT LAWS AND POLICIES IN INDIA

The environment is a place, a combination of biological, physical and chemical environment. It is the place where living and non-living creature lives together. Both the living organism and non-living organism supports and interdependent on each other to fulfill their needs. The basic need which is there to survive are food, water, air, oxygen with addition to land, wood, animals etc. . It is the necessitate of man to be in touch or interact with the environment to survive. Resources id that thing which is required by human for his more comport, survival and basically to get adjust with the environment.

Our surrounding should be healthy to live a healthy life. Environment is like our parents which provide each and everything, big or small to us. But knowing all these things also man reached to a position where he is transforming the shape of environment according to his need and wants. This led to the harm and destruction of the environment and if we will follow the same direction for long time then everything will come to end very soon. Man has played a key role in modifying the environment in his constant efforts towards improving the standard of living². The pollution is something that taints the chemical and biological elements which effects the normal environment system adversely by mixing with each other. In the long run, man is losing out on a healthy environment³. Pollution is something which harms the living and non-livings with its worst effects in many forms like noise, heat, light etc. It can lead to the deviation of environment. Environmental pollution is “the contamination of the physical and biological components of the earth/atmosphere system to such an extent that normal environmental processes are adversely affected”⁴

(A) What Do You Mean By Environmental Pollutants

The agents of the environmental pollution in form of gases, liquid or solid which effects the environmental process can be termed as environmental pollutants. In 1990, there was a report came out that at that time about 65,000 different type of chemical are present in the marketplace which means that around this much of chemicals were released into our environment⁸. According to the report of 2010-11 the number has increased very much.

We need to be focus on the pollution as pollution have no boundaries or any specific character. The chemical or components which causes the pollution take many years to get compose off. It is interesting to note that, as of 1990, there were around 65,000 different chemicals in the marketplace, i.e. potential environmental pollutants that were to be released into air, water and land on a regular basis.⁵

III. WHAT ARE THE CONSTITUTIONAL AND LEGISLATIVE MEASURES TAKEN

The very first and major step taken to save the environment at international level was held in 1972, the Stockholm Declaration which made a state to adopt various steps and measures to protect the environment. The Environment (Protection) Rules lay down procedures for setting

² L.D Saini, Environmental Education, Kalyani publisher, Ludhiana, p 1.

³ Id.

⁴ Kemp, D. D. (1998). *The Environment Dictionary*. London: Rutledge, p. 129. Retrieved December 23, 2011 from Questia.com

⁵ Santos, M. A. (1990). *Managing Planet Earth: Perspectives on Population, Ecology, and the Law*. Westport, CT: Bergin & Garvey, p. 44. Retrieve from Questia.com

standards of emission or discharge of environmental⁶

In India also the government and law decided to stake certain steps to save the environment from degradation and the result of which is in 1976 the Indian Parliament give place to two articles in the constitution of India that is article 48A and article 51A. The articles directs the state to take important measures and guidelines to protect the environment and wildlife. If someone fails to take and follow all the measures and guideline then heavy fine and punishment will be impose on them. Ar. 51 a guides that is also a duty of citizens to protect and improve the nature and environment. On the other hand government have taken many enactments like National Green Tribunal , Wildlife Protection Act , Water Cass act , , Forest Conservation Act , Air (prevention And control of pollution) , National Environmental Appellate Authority Act and many more are taken to check on the environment and protect it from the harm .

According to law both the state and citizen are under the obligation to protect the environment and preserve it for our future generation in the best way possible.

Both the articles, article 51 and 49 just say that there is need and protect our environment by making all us together.

IV. WHAT ARE THE DIFFERENT ACTS TO PROTECT THE ENVIRONMENT?

(A) About The water (Prevention and Control of Pollution) Cass Act

The main task of this act is that it charges and collect the fine or charges from the industries who pollutes the water by discharging their industrial waste into water bodies and make the water dirty. It aims s to provide levy and collection of a chess on water consumed by persons carrying certain industries and local authorities to augment the resources of the Central Board and the State Boards constituted for the prevention and control of water pollution. ⁷If any industry take measurement like install water treatment plant or anything to protect water will also get some perks in exchange like rebate and all.

(B) About the Water act

This act regulates and controls all the water activities done by the industries which harms the water and water bodies.⁸ It seeks and prohibits the harmful actions which the industry takes like intoxicated and poisonous substance entering into water bodies. It have full control over the actions of industries. As a result of this act the Central Pollution Control Board and State

⁶ 1986 Environment (Protection) Rules

⁷ The water (Prevention and Control of Pollution) Cess Act

⁸ The Water act

Pollution Control Board is a result of the act.

It is compulsory for the industry to get approval by the board before discharging any waste or harmful substance into water. The board keep check even on running industries. In case of Ganga water pollution, the owner of the industry had not set up any water treatment plant in his industry and discharge all the harmful toxic substance into Ganga River. The Supreme Court held that the industry will need to pay fine and have to implement the primary water treatment plant immediately by the approval from State Pollution Control Board.⁹

(C) About the Air Act

The air act is the act which keeps check on the air pollution going on in the environment. The act controls and controls the air pollution. The air pollution is something, solid, liquids or gaseous substance present in the air in such a high concentration that it harms the human and other living organisms present on the earth.¹⁰ The air act is also controlled by the Central Pollution Control Board and State Pollution Control Board. The act limits on the person that without the proper measures and action set by the board on cannot control his works and actions. The aim of the board is to check and improve the quality of air in the atmosphere by preventing the pollution in the atmosphere. The most of the air pollution is done by industries, vehicles, fire, automobiles etc. . . . It is very important to control the air pollution as it is a cause of many breathing, lungs and heart disease. The board gives permission after measuring each and every thing from their instruments and by seeing the height of the atmosphere

We can see the example of Delhi, as due to increase in pollution Supreme Court ordered to install CNG in the vehicles to reduce the pollution. Initially people thought it as a headache but afterwards they realized that the decision is very good and helped them economically and socially also.

(D) About the Environment Protection Act –

The act came in year 1986 and acts like an umbrella .It was an outcome of Bhopal gas Tragedy. The main aim of the act is to check on the pollution on the environment which is degrading the nature day by day. The word ‘environment ’ says that it is a relationship of water , land, air , human beings , plants and all living creature present on this earth that support each other for growth and sustainable balance .¹¹All the things are interdependent on each other are if one get effected the automatically other will also face the consequences. The act gives the right to

⁹ State Pollution Control Board

¹⁰ The Air Act

¹¹ The Environment Protection Act

the government to take each and every necessary step to guard and save the environment. The central government has power to take all the regulatory steps, planning and execution of each and every action and programs for abatement of pollution in nature.

It also support the government to lay out the specific limits and standards for the discharge or release pollutants in land, air or water. It provides the procedure to manage the harmful substances and regulates industries to work without harming environment.

If someone goes beyond the limitations and guideline provided under the act can go to the prison for up to 5 year, can impose heavy fine or both, his license to can also get cancel.

(E) About National Green Tribunal Act

The NGT act was formed in 1995. It was introduced to take action against the concept of strict liability which generally arises while handling any type of hazardous chemical. This act was formed to give support to National Green Tribunal for its smooth functioning. The main function is to dispose of all such cases related with hazardous substances which took place accidentally. The liable person is reasonable to pay them compensation to one who get affected due to this act. Generally the owner of enterprise is responsible for these type of accidents. There can be who person or group of person who get effected from these accidents and in case of group of people the owner is still liable to everyone equally.

The main reason behind this act is that there is individual authority to see all there maters other than court to solve these issues speedily without any delay and only issues related with environment is handled under this authority.¹² The liability get impose on the person who is the owner of firm and need to reimburse even in case of death of any injury to person or to property or to environment.

Many law and acts are introduce by our legal system in order to protect our environment but the implementation of these law are not going on properly as people are not understand their duty towards nature . We need to be more aware about these activities to protect it by giving punishment to the people to save our mother earth.

(F) Some case laws

1. M. C Mehta v State of Orissa¹³

A writ petition was filed to protect the health of thousands of innocent people living in Cuttack and adjacent areas who were suffering from pollution from sewage being caused by the

¹² *National Green Tribunal Act*

¹³ AIR 1992 Ori 225.

Municipal Committee Cuttack and the SCB Medical College Hospital, Cuttack. The main contention of the petitioner was that the dumping of untreated waste water of the hospital and some other parts of the city in the Taladanda canal was creating health problems in the city. The State, on the other hand contended that a central sewerage system had been installed in the hospital and that there is no sewage flow into the taladanda canal as alleged. Further, it was asserted that the State had not received any information relating to either pollution or of epidemic of water borne diseases caused by contamination of the canal. Also, the health department shrugged off the responsibility for supply of drinking water and passed the buck to the Municipality which refuted the contentions of carelessness and callousness. The Court reprimanded the authorities and directed the government to immediately act on the matter. Also, the court recommended setting up of a committee to take steps to prevent and control water pollution and to maintain wholesomeness of water meant for human consumption amongst other things. A responsible Municipal Council is constituted for the precise purpose of preserving public health. Provision of proper drainage system in working conditions cannot be avoided by pleading financial inability.

2. M. C Mehta v Union of India¹⁴

On the eve of his retirement, J. Kuldip Singh delivered the judgment in the Taj Trapezium case, culminating a long and arduous battle fought by M. C Mehta for over a decade. The case was first placed in 1984, wherein the petitioner warned of damage to the Taj Mahal from air pollutants from the Mathura refinery. It was alleged by the petitioner that the sulphur dioxide emitted by the Mathura refinery and the industries when combined with Oxygen-with the aid of moisture-in the atmosphere forms sulphuric acid which has a corroding effect on the gleaming white marble of the Taj. Industrial/Refinery emissions, brick-kilns, vehicular traffic and generator sets are primarily responsible for polluting the ambient air around Taj Trapezium. The petition states that the white marble has yellowed and blackened in places. It is inside the Taj that the decay is more apparent. Yellow pallor pervades the entire monument. In places the yellow hue is magnified by ugly brown and black spots. Fungal deterioration is worst in the inner chamber where the original graves of Shah-Jahan and Mumtaz mahal lie. The Court observed that the Taj, apart from being cultural heritage, is an industry by itself, More than two million tourists visit the Taj every year. It is a source of revenue for the country. Various orders were passed by the Court. The Court created a Taj Trapezium which consisted of 10, 400 sq. Kms in the shape of a trapezium to regulate activities in relation to air

¹⁴ AIR 1997 SC 734

pollution. Industries were asked to shift to eco friendly fuel and use lessens the use of diesels generators, and asked the State to improve power supply the city. Tanneries operating from Agra were asked to shift from the Trapezium.

3. Bangalore Medical Trust v B. S Muddappa¹⁵

In this case it was held that absence of open space and public park, in present day when urbanization is on increase, rural exodus is on large scale and congested areas are coming up rapidly, may give rise to health hazard. To say, therefore, that by conversion of a site reserved for low lying park into a private nursing home social welfare was being promoted was being oblivious of true character of the two and their utility.

4. M. C. Mehta (Badkhal and Sujratkund Lakes Matter) vs. Union of India¹⁶

The court held that Articles 21, 47, 48A and 51A (g) of the Constitution of India give a clear mandate to the state to protect and improve the environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. The "precautionary principle" makes it mandatory for the State Government to anticipate, prevent and attack the causes of environment degradation.

V. CONCLUSION

We all know that environment is backbone for our life . By seeing the current scenario, there is a need to take measures and steps to conserve our environment. Our nature is at very curtail stage and we need to make balance between nature and us to conserve if for our future generation. The rapid development, industrialization, scientific advancement lead to the destruction of air, water, soil and our forests. There is a need to enforce the environment law more efficiently and effectively and people need to be more aware our environment. The powers in the hands of Pollution Control Board are not enough as they can just guide them government need to give more power to them which will seriously help them to defeat the purpose. It is very important to set up a different court by keeping experts from the field of ecology and environmental science which only solve the matters related to nature and environment. The role of judiciary need to be extend on these matters. The Supreme Court should keep its eye time to time over this and take quick actions to solve matters.

The most important point is “awareness”, people need to be aware about the laws and their duties. We can educate people by telling them about our interdependency over environment.

¹⁵ AIR 1991 SC 1902

¹⁶ W.P. (C) No.4677/ 1985 decided on Oct.11, 1996

The government should plan the strategies which need to be implemented. The law need to be strict so that people should not take the issue and its punishment very lightly. There is not any specific boundary or character of pollution, it have its impact on everyone. Protection of the environment and keeping ecological balance unaffected is a task which not only the government but also every individual, association and corporation must undertake.

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