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Environmental Law Policy and Governance With Special Reference to Bangalore District an Analytical Study

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ABSTRACT
Environmental plays an important role in the human life and society. The Environmental law policy and governance is selected for the main reason in order to protect the Environment wherein immense damage has been done to the ecology. There is a need for protecting and improving the environment for a peaceful survival of the existence of human beings and other living organisms on this planet earth which has emerged as a human right. The development which caused the damage to the ecology shall be controlled. For the ecological evil there shall be strict political and legal mechanism. Therefore, in the title the word 'law', 'policy' and 'governance' has been used. Consequently, this study refers to the law in the international perspective, national perspective and also in the state perspective of the Karnataka State in India. In this study, special reference has been given to the environmental law, policy and governance of Bangalore District of the State of Karnataka.
Keywords: Environment, Law, Policy and Governance

1. INTRODUCTION

Environment plays an important role in the human life and also in the development of society. With the advancements in science and technology, the purity of the eco system has been threatened to an appealing extent. There is a need to protect and improve the environment which is compelling for the peaceful survival of the mankind and other living organisms on the planet earth that right to environment has emerged as a human right.

Our environment consists of Panchatatva[1] that is Land, Water, Light, Weather and Air which together is responsible for our survival. If the equilibrium of Panchatatva disturbs the existence of human beings then it will be dangerous. Our survival depends on these Panchatatva wherein one need pollution free air to breathe, uncontaminated water to drink, nutritious food to eat, hygienic conditions to live and healthy environment to move. As per the legal term, these elements are "Sine Qua Non" for the sound and healthy development of human personality. In the absence of these Panchatatva, human beings cannot develop themselves with fullest extent. Environment should be pollution free which is a basic need of every human being but everyone has contributed for its pollution and in the present-day situation it has become a universal phenomenon. Healthy environment is essential for our existence in spite of that we are polluting and destroying our own environment and creating endanger for us. The basic reason behind this is that we are taking the advantage of development at the cost of health. In the present situation economic development becomes more essential for us than the existence of quality of life.

In the Ancient Indian Literature, we can find evidences to prove that society in the ancient period gave more attention to the protection of environment than what we think of it today. It is the Dharma[2] of each individual in the society to protect the environment and the nature. The people worshipped the objects of nature. During the Vedic period, the environment was considered in a very pious position and matter of religious importance. It was considered like "One tree is equal to ten sons" which is the quotation of Padma purana[3] which shows the importance of environment. During the ancient time the trees, water, land and animals gained important position. Different punishments were prescribed for causing injury to plant. It was distinguished like shade giving plants, flower bearing plants and fruit bearing plants which prescribes lowest, middle and highest punishments respectively. Kautilya fixed the punishment on the basis of importance of the part of the tree. Manu imposes duty on mankind to protect the forests. Some of the important trees were even elevated to the position of God.

Before 1972, there were no major international efforts to tackle and face global environmental challenges, although there were several legislative instruments dealing with environmental issues which are still in operation. Some of these are as follows:

Nuclear Weapons Test Ban Treaty of 1963

Treaty of Prohibition of Nuclear Weapons in Latin America of 1967

1Panchatatva originates from Sanskrit where 'Panch' means Five and 'Tatva' means Elements. These are Akash (Sky), Vayu (Air), Jal (Water), Agni (Fire) and Prithvi (Earth).

2Dharma means Justice.

3Padma Purana is a Sanskrit word which is a sacred book in the Hindu religion which is an encyclopedic text.

Treaty laying down the principles governing activities of states in exploration and use of Outer space including the moo and the celestial bodies of 1967.

Treaty on the non-proliferation of nuclear weapons of 1968

Treaty on the prohibition of the emplacement of nuclear weapons on the Seabed, Ocean Floor and subsoil thereof 1971

Major international efforts for the protection of global environment started in 1972 when the international community convened the first historic "United Nations Conference on Human Environment" at Stockholm. This conference earmarked the culmination of the efforts that preceded the Stockholm Conference to place the issue of the protection of the environment on the official agenda of international policy and law as it represented the first major international effort to tackle the problem of protecting the environment and its improvement by international cooperation and conventions. The agenda of the Conference was to recognize the relationship between development and environment. It was realized that environmental protection was a key element of the social and economic development.

The functions of the "Earth Watch" includes the identification of the problems of international significance in order to warn against environmental crisis, gathering and monitoring of the data on specific environmental variables and evaluate such data in order to determine and predict important environmental conditions and trends, dissemination of knowledge and information within the scientific and technological communities and ensuring that the decision makers at all levels shall have the benefit of best knowledge that can be made available in the form that can be useful.

The Constitution of India provides a number of constitutional remedies for the preservation of environment. To realize these constitutional remedies, a legally strong ideal environment is required. For this purpose, legislative sanctions are inevitable. Therefore, India is having a number of regulative quantum backed by environment protection for sustainable development. During the British rule, several statutes were enacted by the idea of environment protection like Elephant Preservation Act of 1879; The Obstruction in Airways Act of 1881; The Indian Fisheries Act of 1897, The Indian Ports Act of 1901; The Indian Boilers Act of 1923; The Indian Forests Act of 1927; The Workmen's Compensation Act of 1923; The Mines and Minerals Act of 1947; The Motor Vehicles Act of 1939; Wild Birds and Animal Protection Act of 1912.

In India the movement of environment protection was started in the year 1972. In pursuance of Stockholm Convention 1972, India has set up a National Committee on Environment Planning and Coordination (NCEPC) empowering it to plan and coordinate in the environment related matters. N.D Tiwari Committee is empowered to recommend legislative measures and administrative machinery. In persuasion of these recommendations, separate environment department was established by the Government of India in November 1980 to study and appraise the Government of India about the causes and consequences of environmental degradation and pollution in all the sectors. The 6th, 7th and 8th Five Year Plans have also reaffirmed the sanction and the environment and ecological principles for the use of land, agriculture, water, air, wildlife, forestry, fisheries, marine environment and human dwelling wherein the necessary legislative measures have been implemented. During 1992, Government of India has adopted the well settled principles like Polluter Pays and Sustainable Development as policy programs on matters relating to pollution and its control. Today, India is having a wide range of legislative measures, policies and programs which are supported by Principles of Sustainable Development. Recently, the Prime Minister of India Mr. Narendra Modi initiated Swachh Bharat Campaign on the eve of Gandhi Jayanthi to clean the streets of India from dirt, pollution and wastes. Further an attempt has been made to review the existing important statutes pertaining to environment protection backed by the principles of sustainable development and focuses on the weaknesses and improvements on these statutes.

The Supreme Court of India under the various pronouncements tries to establish cordial and harmonious relationship between human development and human health. The Supreme Court relate environment with the Right to Life under Article 21 of the Constitution of India by providing better protection through its judgement. But the Supreme Court is over burdened with large backlog of cases and the court's ability to handle complex issues of environment has always been a matter of debate. Various decisions of the supreme court over the years stressed on the need for specialized courts and tribunals on the field of environment.

The Law Commission of India in its 186th Report in September 2003 has recommended inter alia in setting up environmental court having both original as well as appellate jurisdiction related to environmental laws and also in the year 1995, National Environment Tribunal Act of 1995 and National Environment Appellate Authority Act of 1997 has come into operation which later on it was repealed by National Green Tribunal Act of 2010. The Supreme Court, High Courts and the newly formed National Green Tribunal are arranged and managed in such a manner so as to provide better protection to the environment and solve the existing problems and create sound and healthy environment for the existing generations and also for the next generations.

The Karnataka State Pollution Control Board (KSPCB) is a statutory authority which is entrusted to implement environmental laws, rules and regulations within the jurisdiction of the Karnataka State in India. The Board ensures proper implementation of the statutes, judicial and legislative pronouncements which are related to environmental protection within the Karnataka State. The Karnataka State Pollution Control Board was constituted in the year 1974 in pursuance of the Water (Prevention and Control of Pollution) Act of 1974. It provides for the prevention and control of water pollution and maintaining of wholesomeness of water. In 1981 after the enactment of Air (Prevention and Control of Pollution Act), the enforcing responsibility is entrusted to the Karnataka State Pollution Control Board to provide for prevention, control and abatement of air pollution. Therefore, as such the board was renamed as Karnataka State Pollution Control Board in the year 1985.

The Karnataka State Pollution Control Board functions through its Head Office in Bangalore and has 44 Regional Offices across the State headed by Environmental Engineers. The Karnataka State has taken a number of initiatives for the protection of the bio-diversity. It also undertakes pro-environmental decisions while implementing economic development strategies thereby it has contributed to bring growth and development without disturbing the ecology. The State has taken stringent measures on plastic waste management, e-waste management, solid waste management, biomedical waste management, hazardous waste management and also on construction and demolition of waste management by establishing and empowering zonal wise authorities. It has determined firmly to increase the existing forest area to protect the bio-diversity. Ultimately, the State Government Policy shows the idea of protection of 'Flora and Fauna' in its territory.

Significance of the Study

The entire study reveals the importance of the Environment along with the eco-system for the existence of human beings with other species on the Earth. In order to continue to live on this earth forever, the protection of the eco-system and bio-diversity is very much necessary not only within India but also all over the world. Due to rapid industrialization for economic growth, developing countries are adopting a number of hazardous activities that are endangering the existing conditions of the environment. At this juncture, the world needs a controlling mechanism in the political and legal domain with the cooperation of World Community, United Nations Organization, Regional and Non-Governmental Organization and also National and Local Governments. This study reveals the first responsibility of the world community to protect the world environment from immense economical development at the cost of ecosystem. Secondly, all countries are the members in the U.N.O which shall shoulder the responsibility in improving their environmental governance. Thirdly, the governmental and non-governmental organizations also share the obligation to remove the environmental hindrances. Finally, the people should be aware of the adverse consequences of environmental pollution and they should not only protect and improve the environment but also ensure the compliance of anti-pollution Laws and if need be, to take help of the judicial forum to enforce such laws in order to maintain the ecological balance.

Objectives of the Study

To investigate various political and legal initiatives for the protection of environment.

To examine economic development initiatives for the third world countries through substantial development.

To examine the implementation process of environmental policy and governance in political and legal sphere at international, national and state level.

To analyze the laws for protection of environment against the developed nations which are responsible for environmental degradation.

To study the flaws in implementing the political and legal mandates which are important for sustainable environmental protection.

2. REVIEW OF LITERATURE

Significance of Sustainability by Kyle Michaud (2018) enumerated that in order to protect and preserve our planet earth there should be necessary changes in the society wherein the sustainability applies to business, products and everyday life.

Environmental Law by Leela Krishnan (2016) states that constitutional laws and amendments have been made in order to protect the environment with references to the international conventions wherever necessary and the growing jurisprudence evolved by the judiciary.

Climate Change and Sustainable Development of India by Jamil Ahamed (2013) stated that there is a need to maintain high living standards amongst the vast majority of population of India and also reduce the vulnerability which is having an adverse impact of climatic changes.

Environmental and Pollution Laws in India (2017) stated that various environmental laws have been implemented in order to control the pollution and protect the environment in India.

Environmental Justice in India: The National Green Tribunal (2016) enumerated by Gitanjali states that environment is to be protected for the welfare of the people. It contributes for the sustainability and good governance

Waste and Wealth: Ethnography by Nguyen (2018) stated that complex negotiations with political and economic forces remake their social and moral lives. Waste and Wealth makes an important contribution to global studies how the forces of globalization blend with local historical cultural dynamics to shape the valuation of people and things.

3. RESEARCH QUESTIONS

What are the nation's obligations in protecting the eco-system as a member of the world community?

What is the role of a Nation – State as a member of the U.N.O in participating in environmental decision making?

What is the Environmental Policy measure that has been adopted in India in consistence with the international initiatives on protection of the environment?

What are the problems in the maintenance of Sustainable Development while considering Economic and Political reforms in India?

What is the role of Indian Judiciary in protecting the bio-diversity?

What are the measures taken for environmental governance in the State of Karnataka in India?

What is the role of Karnataka State Pollution Control Board in protecting the environment by preventing pollution in Bangalore District?

Hypotheses

H0: There is no significant relationship between International Environmental Law and Indian Environmental Policy on protection of the Environment.

H1: There is significant relationship between International Environmental Law and Indian Environmental Policy on protection of the Environment.

H0: There is no significant relationship between Environmental Legislations in India and the State Machinery.

H1: There is significant relationship between Environmental Legislations in India and the State Machinery.

H0: There is no significant relationship between Karnataka State Pollution Control Board (KSPCB) and Corruption which is designed to control the pollution in Bangalore District.

H1: There is significant relationship between Karnataka State Pollution Control Board (KSPCB) and Corruption which is designed to control the pollution in Bangalore District.

4. METHODOLOGY

Doctrinal Method of research has been adopted for this research study. Therefore, as a part of this doctrinal method of research, substantial data will be obtained from various books, articles, authenticated documents, literal works, Supreme Court Judgements and Precedents which are related to this research study. This research study will be conducted in the Bangalore District of the Karnataka State in India.

Motivation behind the Research

The motivation behind this research study is that there is a need to address the environmental crises such as loss of biodiversity and pollution through legal frameworks. This field aims to balance economic development with ecological preservation, protection of human health and ensure a sustainable future for current and future generations. This research study looks into the protection of endangered species and ecosystems including the legalities surrounding habitat restoration and wildlife trafficking. It also helps in analyzing the effectiveness of laws regarding hazardous waste, air quality and marine pollution to mitigate environmental damage. Ultimately, this research study on the environmental law, policy and governance seeks to bridge the gap between scientific evidence and policy, ensuring that legal frameworks are proactive, adaptive and capable of fostering a sustainable, equitable and resilient world.

Rationale behind the Study

The rationale for this research study in environmental law, policy and governance focuses on addressing the increasing ecological crises by analyzing, strengthening and enforcing legal frameworks for controlling pollution, management of resources and sustainable development. It bridges the gap between scientific environmental data and policy, aims to protect human health, prevent future damages and ensure accountability through evidence based legal solutions. It identifies weaknesses in the existing laws to prevent environmental degradation and manage the liabilities for damages. It aligns industrial growth with conservation, ensuring that economic development does not destroy the natural resources. Through this research study, it helps in evaluating the effectiveness of the legal regulations such as the Environment Protection Act of 1986 to enhance compliance, managing the risks and closing the gaps in enforcement. This research supports the legal challenges that upholds the right to clean and healthy environment which is a component of the right to life. Finally, it can be concluded that this research study is critical for developing legal strategies for climate change, loss of biodiversity and cross border environmental issues. This research provides a foundation for developing legal, policy and governance to ensure a resilient and sustainable future development.

Data Collection

Data has been collected from the substantial sources. Various Law Journals, Environmental Reports,

Environmental Laws, Rule and Regulations, Acts and Amendments have been taken into consideration. And also, latest information on environmental matters that are published in recent years have been taken into consideration for the critical examination of the data for this study. Also Judgments and Precedents of High Court and Supreme Court have been taken into consideration for this research study.

Primary Data

The Primary Data has been collected from the following:
The Air (Prevention & Control) of Pollution Act 1981 and Air Prevention & Control of 1987
Amendement
Environmental Protections Act of 1986
The Wild Life Protection Act of 1972 and 1991 Amendment
The National Green Tribunal Act 2010
Karnataka State Pollution Control Board
E-Waste Management Rules framed in the Karnataka State
Karnataka Bio-medical Waste Management Rules
The various environmental policies and laws in the State of Karnataka
Document of Vision 2030 released by the State of Karnataka
Other National and State Rules and Regulations relating to Environmental Protection.

Secondary Data

The observations on environment protection of the various authors and their works have been referred in this research study as a part of secondary source of data collection. A number of journals published regarding the environmental protection is also referred

Tertiary Source

Various websites pertaining to the environment has been surfed through the internet. Also interaction was done with the Non-governmental Organizations to record their suggestions for ecological protection and the information has been extracted pertaining to environmental protection through various news channels.

Environmental Problems and Judicial Approach

Environmental Protection is of paramount importance for every nation. Environmental Protection, Environmental Pollution, Environmental Awareness and Environmental Litigation is of primary concern and importance which has to be taken into consideration and should be given the utmost priority.

The major contribution of the Supreme Court to human rights jurisprudence has been enlarging the scope of Article 21 relating to right to life and including within its ambit the right to safe and pollution free environment. A vast body of case law has been developed favouring the right to a clean and healthy environment as a fundamental right within the meaning of right to life under Article 21 of the Constitution of India

Judicial Approach

The concepts the right to life personal liberty and procedure established by lawcontained in Art. 21 of the Constitution were in a state of inertia during the year 1976 the year of the national emergency. Tables were turned by the landmark decision of the Supreme Court in Maneka Gandhi v. Union of India[4] which held that the right to life and personal liberty guaranteed under Art 21 can be infringed only by a just fair and reasonable procedure. According to the Court the right to life is not confined to mere animal existence but extends to the right to live with basic human dignity.

In the case of M.C. Mehta v. Union of India[5] the Supreme Court of India has stated a new principle of liability for enterprises engaged in hazardous or inherently dangerous activities. Under this principle if any harm results from the hazardous activity, the enterprise is absolutely liable to compensate for such harm. Such liability is not subject to any of the exceptions (stated above) that operate under the rule in Rvlands v. Fletcher.

In People's Union for Civil Liberties v. Union of India[6]the Supreme Court held that the provisions of the international covenant, which elucidate and go to effectuate the fundamental rights guaranteed by our Constitution, can certainly be relied upon by courts as facets of those fundamental rights and hence, enforceable as such.

In Vellore Citizens Welfare Forum v. Union of India[7]the Supreme Court held that it is almost an accepted proposition of law that the rules of
CustomaryInternational law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law.

In Kinkri Devi v. State of Himachal Pradesh[8] a petition filed by a public-spirited woman named Kinkri Devi in the nature of Social Action Litigation (SAL) which is commonly known as Public Interest Litigation (PIL) and

4AIR 1978 SC 597
5AIR 1987 SC 1086
6AIR 1997 3 SCC 433
7 AIR 1996 5 SCC 647
8AIR 1988 H.P. 4

thereby drawn the attention of the Himachal Pradesh High Court against blind and barbaric excavation of limestone in the Sirmour District in Shivalik Hills by the contractors. She appealed to the court that large scale mining operations and excavation has posed a danger to the adjoining lands, water resources, forest, wild life, ecology and environment of the area and therefore these mining operations be stopped at once in the light of the constitutional directive under Articles 48 (A) and 51 (A) (G). It was declared that the court can issue writes, orders, or direction to protect natural wealth and environment.

In the case of Bombay Environmental Action Group v. State of Maharashtra[9], while referring to the serious energy crisis vis-a-vis vast population took note of the special problems of a developing country. It stated thatthe needs of the environment require to be balanced with the needs of the community at large and the needs of a developing country.

MathewLukosev v/s. Kerala State Pollution ControlBoard[10], this case refers to the right to healthy environment as one of the fundamental rights. It also addresses the issues relating to the competing claims i.e., the growth of industries and to define the outer limit of pollution, so that it does not infringe the citizens right to a healthy environment. The court noted that when the degradation of pollution crosses the tolerance limits, it invades the rights and it cannot pass the mustering right of the constitution. While considering these competing claims the court also considered the feasibility of an environment audit preceding the licensing of an industry. It also mooted the creation of a National Environment Agency with powers in areas of planning, enforcement and sanctions.It further noted that an institutional perspective must prevail in these areas and related questions must be upgraded to concerns of national priority.

In the case of F.B. Taraporawala and Others etc. v. Bayers India Ltd. and Others[11] in this case, the Supreme Court while examining sec. 3 (3) of the Environmental Protection Act, 1996 in order to protect the environment caused due to chemical industries, in this case the High Court issued an order prohibiting construction only within 1 km radius in a crowded city, such direction can adversely affect rights of citizens to reside in locality. The Supreme Court directed the Central Government to constitute an authority under Section 3 (3) of the Environment Protection Act, 1986 to examine as to whether relocation of such industry was possible where residential area could be kept wide apart from factory premises.

Indian Council for Enviro-legal Action v. Union of India and others[12] in this case the court sought to frame special procedure for setting up chemical industries. The court stated that the Central Government shall consider whether it would not be appropriate in the light of the experience gained, that chemical industries are treated as a category apart. No distinction should be made in this behalf as between a large-scale industry and a small-scale industry or medium scale industry. All chemical industries whether big or small, should be allowed to be established only after takinginto consideration all the environmental aspects and their functioning should be monitored closely to ensure that they should not pollute the environment around them. It appears that most of these industries are water intensive industries. If so, the advisability of allowing the establishment of these industries in and around areas may also require examination.

In the case of M.C. Mehta Vs. Union of India[13], M.C. Mehta filed a writ petition No.13381 in 1984 expressing concern over the threat to the Taj Mahal posed by environmental pollution particularly on account of the operation of the Mathura Refinery. Constant monitoring of the matter was ordered throughout 1996 by a series of orders, which resulted in steps being taken by the Pollution Control Board and the Government of Uttar Pradesh to clear the area of the hazardous industries.

Environmental Protections Act of 1986

A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for future generations and to ensure good quality of life that the legislature has enacted anti-pollution laws and incorporated many statutory provisions for the protection of the environment. Violation of anti-pollution laws not only adversely affects the existing quality life but the non-enforcement of the legal provisions often results ingeological imbalance and degradation of environment, the adverse effect of which has to be borne by the future generations.[14]

The Environment Act is intended to implement the decisions taken at Stockholm in the United Nation Conference on the Human Environment in June, 1972. India participated in the conference and in order to fulfil its commitment at the conference relating to the protection and improvement ofenvironment and the prevention of hazards to human beings, other living creatures, plants and

9Born L.R (1990) 616
101990 (2) KU p.717
11 AIR 1997 SC 1846
12 1996 (2) SCALE 44 at page 73
13 1996 SCALE cyols I, II, III & VIII 1984
14Indian Council for Environ-Legal Action v. Union of India, (1996) 5 SCC 281 at 293 (popularly known as Coastal Protection case).

property passed the aforesaid enactment.Although there were existing laws dealing directly and indirectly with several environmental matters, it was necessary to have a general legislation for environmental protection as there were uncovered gaps in areas of major environmental hazards. Moreover, because of a. multiplicity of regulatory agencies, there was need for an authority which could assume the lead role for studying, planning and implementing long term requirements of environmental safety and to provide direction to, and co-ordinate a system of speedy and adequate response to emergency situations threatening the environment. The need for creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substance, speedy response in the event of accidents threatening environment and deterrent punishment to those who endanger human environment, safety and health were the driving force which led to enactment of the Environment Act. The Environment Act extends to the whole of India and it came into force w.e.f. 19-11 1986. The Act consists of twenty-six sections.

The presence or absence of any particular organism in such number as to destroy the eco-system is also pollution but has not been covered by the definition under the Act. Destruction of forests, depletion of any species of organism, concentration of any species in an area and undesirable physiographic modifications may also lead to degradation in environmental quality. Thus, it is clear that the definition of environmental pollution given under the Act is inadequate and needs some changes so that the aforesaid shortcomings may be overcome.

Therefore, the environment Act being an 'umbrella' legislation intends to provide a framework for Central Government to coordinate the activities of various Central and State authorities established under previous enactments, such as the Water Act and Air Act. The Act empowers the Centre to take all such measures as it deems necessary or expedient for protection and improvement of the quality of the environment and prevention, control and abatement o environmental pollution. The Central Government in order to fulfil its obligations under the Act may appoint authorities. CentralGovernment may delegate its powers and functions to any officer, state government or other authority. The Act confers a broad rule making power on the Central Government.Various rules have been framed by the Central Government in exercise of this power. The Act provides for severe penalties but at the same time if any act or omission constitutes an offence punishable under the Environment Act as well as any other law, the offender is liable to be punished under the other law and not under the Environment Act. This provision brings unnecessary dilution in the stringent penal scheme of the Act.

Environmental Act and Judicial Response

The judicial response to almost all environmental litigations has been very positive in India. The primary effort of the Court while dealing with the environmental related issues is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. Even though it is not the function of the Courts to see the day-to-day enforcement of the law, that being the function of the executive, but because of the non-functioning of the enforcement agencies to implement the law, the courts as of necessity have to pass orders directing them to implement the law for the protection of the fundamental right of people to live in healthy environment. Passing of the appropriate orders cxxi requiring the implementation of the law cannot be regarded as the court having usurped the function of the legislature or the executive.[15]

Judiciary on Environmental Protection

The Supreme Court and the High Courts of India have established a new jurisprudence in India's onward march towards the sustainable development. Protection of environment highlights the vigilance of the Judiciary. A vast body of case laws has been developed favouring the right to a clean and healthy environment as a fundamental right within the meaning of right to life under Article 21 of the Constitution of India.

Principle of Sustainable Development

The Supreme Court has drawn on several international environmental law principles using them as guiding principles for incorporating concerns into decision making. Balance has to be attained between ecology and development which is the concept of principle of sustainable development. This principle has been incorporated in the National Green Tribunal Act, 2010.

Public Interest Litigation

Public Interest Litigation (PIL) has been developed in recent years which marks a significant departure from traditional judicial proceedings. Through this the court is now seen as an institution in reaching out to provide relief to citizens but even venturing into formulating policy which the state must follow. It has been a conscious attempt to transform the promise into reality.

Polluter Pay Principle

15Indian Council for Enviro-Legal Action v. Union of India, (1996) 5 SCC 281 at 294 (popularly known as Coastal Protection case).

The Supreme Court in several cases implemented this principle which states that the polluter should bear the cost of pollution. This polluter pays principle has been incorporated in the statute governing the National Green Tribunal, 2010.

Precautionary Principle

This principle implies that even in the absence of full scientific evidence, there is a social responsibility to protect the public from harm when scientific investigation suggests a plausible risk. It is also relevant in the context of intergenerational justice.

Doctrine of Public Trust

The Supreme Court held that it is the responsibility and obligation on the government to preserve the natural resources such as rivers, forests, seashores and the air among other things for the purpose of protecting the ecosystem.

Principle of Intergenerational Equity

According to this principle, the states are obliged to conserve and use the environment and natural resources for the benefit of present and future generations. The Supreme Court held that the present generation owes an obligation to the future generation to hand over to them an environment that the present generation inherited from the previous generation.

Judiciary on Biodiversity

The Supreme Court of India scrutinized various aspects of coastal zone management. It observed that the purpose is to protect the ecologically fragile coastal areas and to safeguard the aesthetic qualities and uses of the sea coast. Impact on physical and social environments also had been assessed. Modern aquaculture techniques to be used and the judgement was influenced by the concept of sustainable development.

Judiciary on Forest Protection

Forests help in maintaining the ecological balance. They render the climate equable add to the fertility of the soil prevent soil erosion and promote perennial stream flow in rain fed rivers. Industrial growth and progress energy is indispensable. Exploitation of resources available from forest and it cannot be ruled out. The obligation of the society must predominate over the obligation to the individuals. Proper balance between environment and development has to be maintained.

Judiciary on Wild Life

Provisions of Wildlife Protection Act has been examined by the Supreme Court and from the case laws it was decided that wild life should be protected along with sanctuaries and national parks wherein ultimately the environment has to be protected by following the principle of sustainable development.

Judiciary on Pollution Control

Supreme Court of India has issued directions for the pollution control boards to keep the pollution under control so that there is said to be balance between economic development and control of pollution. Hazardous wastes and chemicals should be disposed in a proper manner. Punishments have been made more stringent for violating the rules and regulations pertaining to pollution, thereby pollution has been controlled in an effective manner without harming much to the environment thereby achieving sustainable development and also social & economic development of the country.

Role of National Green Tribunal in Protecting Environment

In India, the need for environmental court was first advocated by Justine P.N Bhagwati. The Supreme Court of India pointed out that the cases involving issues of environmental pollution, ecological destruction and its conflict over natural resources involved assessment and evolution of scientific data and therefore according to the court there was an urgent need of involvement of experts in the administration of justice.

The National Green Tribunal Act of 2010

The National Green Tribunal has been established on 18th October 2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected herewith or incidental thereto. It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues The Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908 but shall be guided by Principles of natural justice. It provides speedy environmental justice and helps reduce the burden of litigation in higher courts.

Judicial Remedy under the Act

The Act seeks to discourage delayed applications for relief. The Act obligates the claimants under the Act to intimate to the Tribunal about the application filed to or as the case may be, compensation or relief received from other court or authority. The Act provides bar on jurisdiction of civil courts, wherein no civil court shall have jurisdiction to entertain any appeal in respect of any matter which the Tribunal is empowered to determine

under its appellate jurisdiction. The Act provides for various kinds of relief. It says that the Tribunal may by order, provide, relief and compensation to the victim of pollution and other environmental damage arising under the enactments specified in the Schedule – I to the Act including accident occurring while handling any hazardous substance. It may also order the restitution of the property damaged and the restitution of the environment for that areas as the Tribunal may think fit. Any person who has suffered damage or sustained injury or death which has resulted from the environmental damage can file an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by the person who has sustained the injury. Claim also includes cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco systems. Loss and destruction of any property, other than private property, loss of business or employment or both and any other claim arising out of or connected with any activity of handling of hazardous substances.

Notable Orders

Yamuna Conservation Zone – The National Green Tribunal has recommended the Government to declare 52 KM stretch of the Yamuna in Delhi and Uttar Pradesh as a conservation zone.

Coal Block in Chhattisgarh Forest – overruling the statutory Forest Advisory Committee.

Ban on decade old of Diesel Vehicles – Vehicles which are older than 15 years will not be allowed to ply.

Ban on mining and removal of sand from River Beds – The National Green Tribunal has banned mining or removal of sand from rivers beds across the country without licence and Environmental Clearance from the Union Ministry of Environment and Forests.

Ban on burning plastic and garbage in Bangalore – The National Green Tribunal has ordered a complete ban on burning any kind of garbage, leaves, plastic waste and rubber in the State Capital Region to control air pollution.

Ban on burning tyres at public places – The National Green Tribunal issued a ban on the process of burning of tyres at public places like roads and areas surrounded by residential buildings.

Sustainable Development in the State of Karnataka

The Sustainable Development Goals 2030 constitutes 17 goals with 160 targets covering a broad range of interconnected sustainable development issues. These include ending poverty and hunger, improving health and education, making cities more sustainable, combating climate change and protecting forests and oceans. The implementation of Sustainable Development Goals needs to be judiciously prioritized and adopted. The goals and targets should be customized in accordance with local challenges, capacities and resources available. It is envisioned that Karnataka will become a leading global destination by the year 2050. The Karnataka government is showing true leadership in transitioning one of the India's first "Green Revolution" states into one of the India's first natural farming states.

Karnataka State Pollution Control Board (KSPCB)

The Karnataka State Pollution Control Board (KSPCB) is a statutory authority entrusted to implement environmental laws and rules within the jurisdiction of the State of Karnataka, India. The Board ensures proper implementation of the statutes, judicial and legislative pronouncements related to environmental protection with the State. It has been playing a catalytic role in implementing environmental policies, laws regulations and developing frameworks to manage both wastes and natural resources more efficiently. With its Head Office at Bangalore, the Board covers the entire Karnataka State and is empowered to carry out its functions under the provisions of the following Pollution Control Acts, Rules and Amendments issued under.

The Water (Prevention and Control of Pollution) Act, 1974 and amendments thereof – This Act provides for the prevention and control of water pollution and the maintaining and restoring the wholesomeness of water, establishment of Boards for the prevention and control of water pollution and also for conferring on and assigning the powers and function relating thereto and for matters connected therewith.

The Water (Prevention and Control of Pollution) Cess Act, 1977 and amendments thereof: - This Act provides for the levy and collection of cess on water consumed by persons carrying on certain industries and by local authorities

The Air (Prevention and Control of Pollution) Act, 1981 and amendments thereof: - This Act provides for prevention and control and abatement of air pollution

The Environment (Protection) Act, 1986 and amendments thereof: - This Act intends to provide for the overall protection and improvement of the environment.

The Hazardous Wastes (Management and Handling) Rules, 1989 and amendments thereof: This Rules demand that various categories of hazardous waste, as mentioned in the Rules and hazardous waste generated within the State of Karnataka is properly stored, treated and disposed off to ensure that the handling of such waste

does not cause any kind of ecological disturbances.

5. CONCLUSION

The Government of India has passed innumerable laws to help in the task of environmental protection. But unfortunately all the regulations and acts have not been implemented effectively to protect the environment. The laws have been misused and the land has been exploited ruthlessly leading to ecological destruction and social injustices. Majority of the Industrial leaders lack social conscience and they have exploited our country's resources and polluted our earth, water and air. The people as the citizens of India have not made their voices heard. The opening up of the economy and globalization has put a greater pressure on the resources, vitiating the fragile eco system of our country. Indian Judiciary has
adopted public interest litigation for the cause of environmental protection which has proved to be an effective tool. The researcher critically examined the collected data to test the hypothesis along with a brief discussion has been made on the contemporary environmental problems that have been facing not only in regional, national but also universal. After careful analysis, the researcher traced some important suggestions to fill the gap with the new laws which are necessary for the good environmental governance in national and at the state level.

The researcher submits that there exist lapses in environmental protection laws and there is failure on the part of governmental machinery. Violence on environment should be denuded. There is a need to look into the working of pollution control boards. Due to the poor enforcement of environmental protection laws legal action to protect and preserve the environment is not up to the mark in India. People of India should realize the severe magnitude of the damage wrecked on the earth in the guise of development. The concepts of ecological development are fully applied by Indian Judiciary while adjudicating the environmental issues. Proper ecological balance should be maintained in order to preserve life on earth. The Supreme Court has changed the course of environmental law by making environmental obligations binding on the state by interpreting that the right to a clean environment which is an integral part of right to life. This jurisprudence of fundamental rights and adopting a right based approach towards the environment has empowered the citizens to seek enforcement of environmental rights. The Supreme Court has contributed to the development of
environmental law by interpreting various provisions of the constitution to enable the application of international principles of environmental law into national law.

On the application of principles of sustainable development, the Supreme Court has given effect to the principles of social justice inherent in the constitution of
India. Therefore while laying down environmental law, the Supreme Court has in fact established the constitutional objectives of social economic and political justice and the fundamental rights of the citizen of India. Powerful movement has grown up all over the world for protecting environment. Especially International Environmental Conferences adopted principles to guide the governments in their handling of global environmental crisis. Countries also adopted policies and guidelines in protecting environment. Judiciary has given helping hand in promoting environmental protection.

6. SUGGESTIONS

The existing legal provisions are inadequate to control the enormous problems of environmental pollution of various types in the country. The judiciary has to play a more active and constructive role. There is lack of awareness among the public in terms of problems pertaining to pollution, lot of industries and local bodies and also there is lack of planning. New jurisprudential techniques have to be devised to deal with the problems of pollution control and protection of environment.

Environmental law should be implemented effectively by adopting new instruments, mechanisms and procedures like environmental impact assessment and environmental audit and incorporate environmental objectives in manufacturing processes, minimum usage of hazardous materials and toxic chemicals, careful usage of toxic gases will reduce environmental load.

Legal provisions granting a perspective right to pollute air and water should be constructively restricted by the courts. Legal provisions intended to prevent or control pollution should be interpreted in such a way that even the invasions of anti-

pollution laws are covered.

Public awareness should be created and the Government should initiate the programmes with regard to human rights and environmental protection along with related laws.

Good environmental practices must be supported throughout the world for life sustenance and adopting green technologies using solar energy, low CFC emitting technology, highly innovative, cost effective and eco friendly technologies.

Supreme Court Judgement pertaining to the case of Ratlam Municipal Council should be treated as containing the basic guidelines in determining the primary responsibility of the local bodies.

Coordination among all the countries globally and among

the governments locally both centre and state, private groups, organizations, financial institutions and people at large in appropriate aspects is needed for protecting the environment through sustainable development.

The sentencing policy should emphasize on abatement of pollution of environment instead of imposition of fines and penalties. Public should be encouraged to carry out environment friendly activities.

The present judicial policy of encouraging public interest litigation for protection of the natural environment should be continued in view of the wider social interests affected by environmental pollution. New methods and new devise strategies should be inculcated for the purpose of providing access to justice to the people who are denied their basic human rights; the courts should be judicial activists in promoting healthy environment in India.

Promoting programmes should be encouraged for the protection of human and environmental rights in order to adopt more holistic approach for integrating the requirements of sustainable development.

Strategies for environmental protection and sustainable development should be adopted and the public should be educated to make them aware of their rights as citizens of this country for a clean environment, clean water, clean air and clean surroundings. They should act together to fight corruption and ruthless exploitation by the captains of industry.

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