

Environment Legislation and Judicial Interpretation

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Abstract—Environmental laws create the structure for enforcing and regulating policy measures via legal proceedings and the actions of regulatory bodies. Protection and management of natural resources like Water, Land, Agriculture, wildlife, Forest and several other Environmental factors is necessary to make Environment legislation. Development of Environment law is classified into two phases Before 1972 India depended on amalgamation of Tort, Criminal law and some specialized legislation to look at Environmental protection. And after 1972 Stockholm period came. The UK conference on Human Environment and development was held at Stockholm and gave birth to the Stockholm Declaration on Human Environment of 1973 and 42nd Amendment in Constitution of India adopted after the Stockholm conference which introduced responsibility of both state and citizens to protect and improve the Environment. Article 48(A) in the Indian Constitution, provides that it is the duty of the state to protect and improve the Environment Article 47 further provides that the state raises the level of nutrition and the standard of living and to improve public health. Article 21 of Indian Constitution which provides Fundamental rights to reside in a pollution free Environment and to have access to clean air and water. On the other hand, the judiciary plays a very important role, sometimes the judiciary decision of the case is not only based on any legislation or any precedent but it is based on the judge's own decision. Judges give their personal view regarding a public policy instead of constitutionalism, and this concept is called Judicial Activism. There are various methods of judicial activism like judicial review PIL, constitutional interpretation, supervisory power of the higher court on the lowest court Role of judiciary in formation of Environment legislation in India can be understood by various landmark cases.

I. INTRODUCTION

Environmental legislation is the legal frame work for enforcing or regulating the policy provisions with the help of Judicial Proceedings, courts and regulatory authority. Regulations and provisions pertaining to

the protection of the environment and the management of natural resources, such as water, land, agriculture, animals, forests, and many other environmental elements, are found in environmental laws. Environmental law controls how people behave towards the environment, lessens environmental hazards, and enhances public health. Environmental services like drinking water, sanitation, waste management, Preventive health, and land-use and zoning also part of Environmental laws politics. The primary goal of these policies and regulations is to enhance resource management and environmental quality. Environmental legislation is also a useful instrument for educating people about their responsibilities to preserve a healthy environment, establishing liabilities, and providing judgement, remedy, or compensation. On the other hand, the Judiciary plays an important role in upholding and promoting the rights of citizens in a country. The active role of the judiciary in upholding the rights of citizens and preserving the constitutional and legal system of the country is known as judicial activism. Judicial Activism is a concept that was originated in US in 1947. It can be defined as a philosophy of judicial decision making where by judges allow their personal views regarding a public policy instead of constitutionalism.

II. DEVELOPMENT OF ENVIRONMENTAL LAW IN INDIA

The development of Environmental Law in India can be classified into two Phases-Development Before 1972 and Development After 1972: -

(1) *Development Before 1972-*

During this period India depends on amalgamation of tort, Criminal law regulation related to water and forests and some specialized legislation to look environmental protection Matters.

(2) *Development After 1972-*

It was the period of Stockholm period. Stockholm conference resulted in environmental protection concern for whole world. The UN conference on Human Environment and development held at Stockholm and gave birth to the Stockholm Declaration on Human environment of 1978 This conference also attended by the prime minister of India Mrs. Indira Gandhi on 13/01/2006 India become the part of Stockholm conference. Basically, it contained 26 principals related to environment issues.

42nd Amendment in constitution of India after adopting Stockholm conference 1972 this amendment introduced responsibility of both state and citizens to protect and improve the environment.

By introducing *Article 48 (A)*¹ in the Indian constitution provides that it is duty of state to protect and improve the environment and to safeguard the forests and wildlife of the country.

*Article 51 A (g)*² provide that it is the duty of every citizen to protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures.

*Article 47*³ The Indian Constitution direct at the state to raise the level of nutrition and the Standard of living and to improve public health.

*Article 21*⁴ Right to life, which says that every individual has right to reside in Pollution free environment and to have access to clean air and water.

III. ENVIRONMENTAL LEGISLATION IN INDIA

3.1. *The National Environmental Tribunal Act of 1995*

Now its 2010 after amendment This act adopted to doing settlement for damages which is caused by harmful substances- Environment consist water, air land as well as the people, other living things, plants, animal If any damage caused which may be permanent are temporary, a liability, medical expenditures or death, the owner is responsible of making it.

¹ The constitution of India, 1949.

² Ibid

³ Ibid

⁴ Ibid

3.2. *National Environment Appellate Authority Act of 1997*

This Act was implemented for the address cases in which Environment clearances are required in certain restricted area.

3.3. *Biomedical waste (Management and Handling) Rules (1998)*, provide that there should be proper disposal of bio-medical waste. Bio-Medical waste Includes-Dead bodies of Humans, Body Part, organs, Animals waste, Needles, medicines discarded by Hospital or chemicals, Incineration ash.

3.4. *The Municipal Solid wastes (Management and Handling) Rule 2000*, This Rule order that no person should throw, burn the solid waste generated by them on streets Open Public spaces outside his premises, this rule order the administrating of Solid waste, including its collection, segregation, handling, Preservation.

3.5. *The Noise Pollution (Regulation and control (Amendment) Rules 2017* These rules regulate the Noise Pollution and impose Conditions to reduce noise Pollution and provide the limitations on the use of loudspeakers during night and No Horn, crackers should not be used in Silent zone on during night time.

3.6. *The Air (Prevention and control of Pollution) Act 1981*, the main aim of this act to control and prevent the air Pollution and establish some boundaries to air Polluters and Central Pollution control board and State Pollution Board establish for its Execution.

3.7. *The forest Conservation) Act, 1980*, establish to Protect Forest and their economy system and impose restrictions in forest land for agriculture, commercial motives. Scheduled Tribes and other Tradition Forest Dwellers (Recognition of Forest Right) Act 2006 (FRA) Provide Forest right and habitation Right to forest Dwelling scheduled Tribes and other Traditional Forest to Dwellers. who served in forest for generation.

3.8. *The water (Prevention and control of Pollution) Act 1974*, Protect and control water Pollution and observe water purity and maintaining or restoring of water in the Country.

3.9. *The wildlife (protection) Act 1972*, Protect the India's diverse wildlife, covering animals, Plants, and birth verities.

3.10. *The ozone-Depleting substances (Regulation and control) Rule 2000*, implemented to regulate the use and reduction of ozone depleting substance

3.11. *The National Green Tribunal Act 2010*, This act establishes National Green Tribunal and have main goal to provide effecting and accelerated treatment in case related to Environment protection forest conservation, of Notion resources.

IV. JUDICIAL ACTIVISM METHODS

There are various methods of judicial activism that are followed in India. They are:

Judicial review (power of the judiciary to interpret the constitution and to declare any such law or order of the legislature and executive void, if it finds them in conflict with the Constitution)

- i) *PIL*- PIL stands for Public Interest Litigation, which is a legal action that can be filed to protect the public interest. PILs are filed in courts to address problems that affect the rights of the public or a community.
- ii) *Constitutional interpretation*- It involves using theories and methods to interpret the constitution's language and apply it to current situations.
- iii) Supervisory power of the higher courts on the lower courts allows them to control and guide the lower courts. This power is exercised by the Supreme Court and the High Courts.

V. SIGNIFICANCE OF JUDICIAL ACTIVISM

- i) It is an effective tool for upholding citizens' rights and implementing constitutional principles when the executive and legislature fails to do so.
- ii) Citizens have the judiciary as the last hope for protecting their rights when all other doors are closed. The Indian judiciary has been considered as the guardian and protector of the Indian Constitution.
- iii) There are provisions in the constitution itself for the judiciary to adopt a proactive role. Article 13 read with Articles 32 and 226 of the Constitution provides the power of judicial review to the higher judiciary to declare any executive, legislative or administrative action void if it is in contravention with the Constitution.
- iv) According to experts, the shift from locus stand to public interest litigation made the judicial process more participatory and democratic.
- v) Judicial activism counters the opinion that the judiciary is a mere spectator.

VI. ROLE OF JUDICIARY IN FORMATION OF ENVIRONMENT LEGISLATION

The role of judiciary in formulation of environment legislation in India can be clearly understood by Landmark, cases which have given a new face to environmental laws

A. Municipal Council, Ratlam v. Shri Vardhichand and Ors ⁵

The case of Ratan Lal Vs. Virdhichand (1994) is a significant environmental law judgment from India. It primarily deals with the issue of environmental pollution caused by industrial activities and the rights of individuals affected by it. The petitioner, Ratan Lal, filed a case against Virdhichand, alleging that his industrial activities were causing severe pollution, affecting the environment and the health of nearby residents. The case was brought before the court under public nuisance and environmental protection laws. The main concern was whether the right to carry on industrial activities could override the right to a clean and healthy environment.

Issues:

1. Environmental Pollution - Whether the industrial activities of the respondent were causing harm to the environment and public health.
2. Fundamental Right to a Clean Environment Whether pollution infringed upon the Right to Life (Article 21) of the In stitution.

The court ruled in favor of environmental protection, emphasizing that industries cannot operate in a manner that harms public health. It reaffirmed that the right to a clean environment is a fundamental right under Article 21 of the Indian Constitution. The court directed the polluting industry to adopt pollution control measures or shut down operations if compliance was not possible.

B. Union Carbide Corporation vs. Union of India (Bhopal Gas Tragedy)⁶

On December 3, 1984, almost forty tons of Methyl Isocyanine (MIC), a toxic gas mixed with water creating an exothermic reaction leaked from Union Carbide India Limited (UCIL) plant and spread in Bhopal, a city in Madhya Pradesh in India. This gas leakage effects were so hazardous that thousands of

⁵ 1980 AIR 1622, 1981 SCR (1) 97.

⁶ 1992 AIR 248

people were killed on the spot and various were effected through this at large and many generation faced the hard consequences of it as children's use to get born with certain disorders like visual impairment etc and this all was caused due to the negligence of the company Despite repetitive complaints regarding the safety measures of the pesticide plant by the agronomic engineer of the plant. LUCIL ignoring all these complaints kept on producing dangerous & hazardous chemicals in the plant.

On June 7, 2010, the court applied the absolute liability principle, relying upon which seven ex-employees including the former chairman of UCIL were convicted by the court of causing death by negligence under Section 304-A of IPC and were also charged under Section 35, 336, 337, 338 of IPC. 1860, by which all were sentenced to two years of imprisonment. In addition to it, fine was also imposed on the company. Later on, the Government of India passed the Bhopal Gas Leak Disaster Act which gave the government a right to represent all victims in or outside India and applied the polluter pay principle to detect the amount of compensation payable by the company as a result of which the UCIL had to pay US 5-470 million in a full and final settlement of civil and criminal liability.

C. Vellore Citizen Welfare Forum vs. Union of India⁷

This is a landmark case as principles like polluter pay and precautionary were applied here as well as the wept of sustainable development was recognized and for the first time Court analyzed the relationship between environment and development. The facts of the case were that some industries were discharging untreated effluents in the river Paler which was the main source of drinking and bathing water for the nearby people of Tamil Nadu. It was not only making water unfit for use bed was also deteriorating the Land fertility.

Vellore Citizen Forum brought an action against these activities and latterly it was found by the Tamil Nadu Agricultural University Research Centre that nearly 35,000 hectares of land has become unfit for cultivation because of this the court applied the doctrines and declared that industries are liable to pay compensation as they have adversely affected the environment and certain changes were

needed to be made in working of the industries so that this could not happen again and it was also stated by the court that those industries w do not follow the above instructions will be permanently closed. The Supreme Court further stated that fine of Rs. 10,000 need to be paid by all the involved industries in Environment Protection Fund and that Amount would be used to cover the harm incurred to the environment as well as in compensating the affected persons. The Precautionary Principle of the basic idea behind this principle is that prevention better than cure It says that preventive measures should be taken while carrying out an activity which can lead to environment degradation i.e. we should not wait for the harm caused. It's better to be take safety precaution beforehand only.

Like if any industry is engaged in any hazardous activity, then it should property perform such activities by taking all precautionary measure like proper machines, proper drainage systems, and time-to-time beek on machines, etc. so that there could be less chances in environmental damage. This principle us been into picture since the Stockholm Conference, 1972. The Supreme Court has considered this principle as a part of environmental law of India

D. M.C. Mehta vs. Union of India (Delhi Stone Crushing Case⁸

In this case, a petition was filed under Article 32 of the Constitution against the activity like mining, stone crushing and pulverizing which was degrading the environment condition. The issue was that whether for preservation and protection of environment and control over pollution, this activity should be stopped within the radius of 5kms or not from the tourist resorts of Baldly Lake and Surajkund in the State of Haryana So, the Supreme Court directed that

No mining activity should be allowed within 2km of the tourist resorts.

No construction activity would be allowed within Skin of the tourist resorts.

No renewal of leases would he made within the tourist areas.

The Supreme Court basically came up with a view that for protection of environment only air and water act implementation is not enough and for better and

⁷ AIR 1996 SC2715

⁸ 1991 SCR (1) 886, 1991 SCC(2) 530

proper enforcement of law there should be public awareness programmed conducted so that people could be more aware of the fact that what law is all about and what they need to do to abide by the law and by this the laws can give more positive effect in the society and environment can be preserved in a more better way as environment damage affects the public only so they should be more acknowledged in preserving and protecting the environment.

*E. Lafarge Umiam Mining Pvt. Ltd. v. Union of India & Others*⁹

The case involved Lafarge Umiam Mining Pvt. Ltd., a subsidiary of the French multinational Lafarge, which was engaged in limestone mining in Meghalaya. The limestone was mined and transported to Bangladesh for cement production under a bilateral agreement between India and Bangladesh. Environmental groups and local communities challenged the project, arguing that it violated forest and environmental laws, as the mining area included forest land.

Issue raised:

1. Violation of Forest Conservation Act, 1980 - The mining project had started without proper environmental clearances, particularly for forest land.
2. Environmental Impact Assessment (EIA) Process The project was initially cleared without a proper EIA, raising concerns about procedural lapses.
3. Impact on Local Tribes and Ecology The project was alleged to have caused deforestation, displacement of indigenous people, and environmental degradation.

The court ruled that mining activities in forest land require prior environmental clearance under the Forest Conservation Act, 1980. Emphasized that companies must comply strictly with environmental laws before starting operations. And Strengthened Environmental Impact Assessment (EIA) Process. The Supreme Court revoked Lafarge's previous environmental clearance and directed a fresh EIA to be conducted. Environmental clearance and directed a fresh EIA to be conducted. Made public hearings and consultations with local communities mandatory before granting environmental clearance.

⁹ 2011 SCR 954

*F. M.C. Mehta v. Union of India (1988) - Ganga Pollution Case*¹⁰

The case was filed by M.C. Mehta, a prominent environmental lawyer, as a Public Interest Litigation (PIL) in the Supreme Court of India. The petition sought action against industries and municipal bodies polluting the Ganga River by discharging untreated sewage and industrial waste. It highlighted violations of the Water (Prevention and Control of Pollution) Act, 1974 and the Environment Protection Act, 1986. The court ordered all industries operating near the Ganga to install effluent treatment plants (ETPs). Industries that failed to comply were ordered to shut down. Municipal Corporations Must Treat Sewage The court directed municipal bodies to construct sewage treatment plants to prevent untreated sewage from being discharged into the river.

The Central Pollution Control Board (CPCB) was directed to monitor industries and take strict action against violators. It reinforced the application of the Water (Prevention and Control of Pollution) Act, 1974. Recognized Right to Clean Water as Part of Right to Life (Article 21)

*G. M.C. Mehta v. Kamal Nath (1997) - Span*¹¹

The case was filed by M.C. Mehta, a well-known environmental activist and lawyer, against Kamal Nath, a former Union Minister, and the owners of Span Motels Pvt. Ltd. Span Motels was a private company that built a motel on the banks of the Beas River in Himachal Pradesh. The company illegally encroached on forest land and attempted to divert the course of the Beas River to protect the motel from erosion, causing ecological damage.

Issues raised:

1. Violation of the Public Trust Doctrine Natural resources like rivers and forests belong to the public and cannot be privatized for commercial interests.
2. Environmental Damage and River Diversion - The construction activities interfered with the natural course of the Beas River, leading to flooding and environmental degradation.
3. Government's Role in Protecting the Environment Whether the government acted responsibly in allowing the illegal occupation of forest land.

¹⁰ 1987 4 SCC 463

¹¹ 1997 1 SCC 388

The Supreme Court ruled that natural resources (like rivers and forests) are held in trust by the government for public use and cannot be leased or sold for private commercial gain. This doctrine prevents environmental exploitation by private entities. The court directed Span Motel to vacate the land and return it to the government. The company was held responsible for damages caused to the Beas River ecosystem. The court further ordered the company to pay damages for restoring the ecological balance of the area. The Supreme Court criticized the government's role in allowing private encroachment on public land. It emphasized that government officials must act in the public interest, not for private benefits.

H. Narmada Bachao Andolan (NBA) v. Union of India¹²

The case was filed by Narmada Bachao Andolan (NBA), a social movement led by Medha Patkar, against the construction of the Sardar Sarovar Dam on the Narmada River. The NBA argued that the dam would displace thousands of tribal and rural communities without adequate rehabilitation. They also raised environmental concerns about deforestation, loss of biodiversity, and the submergence of large areas of land.

Issues:

1. Whether the construction of the Sardar Sarovar Dam violated the Right to Life (Article 21) due to displacement and environmental harm.
2. Whether environmental clearance procedures were properly followed.

The Supreme Court, in a 2:1 majority verdict, allowed the construction of the dam to continue. The court held that development projects like dams are necessary for economic growth, irrigation, and drinking water supply. It directed that rehabilitation of displaced persons must be carried out properly before further construction. The court ruled that the project had received proper environmental clearance and emphasized the balance between development and environmental protection.

I. Subhash Kumar v. State of Bihar¹³

The case was filed by Subhash Kumar, a journalist, under Article 32 of the Constitution, claiming that pollution from TISCO (Tata Iron & Steel Company) in Bihar was affecting the quality of water in the Bokaro River. He argued that access to pollution-free water is a fundamental right under Article 21 (Right to Life) of the Indian Constitution.

Issues:

1. Whether the right to pollution-free water is part of the Right to Life under Article 21.
2. Whether public interest litigation (PIL) can be filed for environmental protection.

The Supreme Court dismissed the petition, stating that it was filed due to personal motives rather than genuine public interest. However, the court made a landmark observation that:

The right to live includes the right to enjoy pollution-free water and air.

Environmental protection is an essential part of the Right to Life (Article 21).

The court emphasized that only bonafide petitions should be entertained under Public Interest Litigation (PIL).

VI. CONCLUSION

Environment and development go hand in hand with each other i.e. for development of the country environment conditions need to be good and vice-versa. The public health and environment related topics can be not left aside as they are key part to the country's growth and development. The environment provides and fulfils our every basic necessity of life and without healthy environment, human existence is not possible. But with the development we are lacking behind in saving our environment although there are various measures taken by the government and various conventions held so far, but for preserving and protecting the environment human co-operation is must as they share a very close connection between them. The judiciary has played a very important role in formulation of various principles and doctrines and development of environmental legislation especially by including right to clean and healthy environment as a part of our fundamental right under Article 21 of the Constitution. But still for better environment condition public awareness programmes need to be conducted so that people can be aware of their right

¹² (2000) 10 SCC 664

¹³ (1991) AIR 420, SCC (1) 598

and duties and environment can be preserved in a better way.