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LAWS & CONSTITUTIONAL PROVISIONS FOR ENVIRONMENT PROTECTION

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ABSTRACT

Environment law is a network of regulation and customary laws that deals with the effects of activities done by human beings with nature or the environment. These laws are also termed as environment and natural resource laws. It basically manages specific natural resources and assessments on the impact of the environment. Environment law encompasses issues related to air and water quality, pollution control and the protection of natural resources. It aimed at the protection and the development of the environment and its natural resources.

Keywords: environment law, customary laws, human beings, protection, development, environment.

INTRODUCTION

Environmental laws play a crucial role in protecting the nature and preservation of the natural resources. Various laws are enacted in order to preserve and protect nature and absence of these laws will significantly impact nature and its resources. It pertains to issues such as raising pollution, hunting endangered animals, deforestation at large scale, depletion of natural resources, greenhouse gas emissions, pollution of air water and soil and many more. Environment laws are made so that proper balance should be maintained with the ecosystem. It ensures that it cooperates with the environment and does not cause any harm to the environment or its ecosystem.

Regulations and treaty agreements between the different countries, corporations, public interest initiatives are for promoting the individuals towards conservation of natural resources and concern towards nature. Laws help to prevent environmental degradation or deterioration of the environment through the depletion of resources, the destruction of ecosystems and extinction of wildlife. It plays a vital role in protecting and preserving natural resources, habitats, animals etc. it is based on the principle of sustainable development.

Sustainable development is the development that meets all the needs of the present without compromising the ability of future generations to meet their own needs. It basically says that there must be a balance between present development and environment. Present development must not degrade or cause the depletion of the environment.

The environment legislation ensures ‘environment conservation’ along with it also seeks to promote ‘sustainable development’.

SOME LAWS RELATED TO ENVIRONMENT PROTECTION AND WILDLIFE

- The Environment (Protection) Act, 1986
- The Forest (Conservation) Act, 1980
- The Wildlife (Protection) Act, 1972
- Water (Prevention & Control of Pollution) Act, 1974
- Air (Prevention & Control of Pollution) Act, 1981

1) The Environment (Protection) Act, 1986

The scope of this act is that it extends to the whole of India. Basically, this Act came into force on 19 November 1986. Section 2 of the Environment Protection Act, 1986 deals with the definition clause.

Definition:

Environment includes air, water and land and the inter relationship which exists among and between air, water & land and human beings, plants, other living creatures, micro- organism and property.

Measures taken by the central government are:

- ❖ Standards are laid down for the quality of the standard of the environment.
- ❖ Proper planning and execution of the National program for prevention, controlling and abatement of environment pollution.
- ❖ Procedure regarding the duties and powers are laid down in order to safeguard and handle the hazardous substance.
- ❖ Proper examination of the manufacturing process should be done of the materials which can cause environmental pollution.
- ❖ Power to inspect at various premises, products, materials, equipment, and substances and provide power to direct authorities for the prevention and control of environment pollution.

2) The Forest (Conservation) Act, 1980

The scope of this act is that it extends to the whole of India except the state of Jammu & Kashmir.

This act came into force on 25th October, 1980.

It covers all types of forest such as reserved or protected or any forested land.

Objectives of the act are:

- ❖ Protecting and conserving the forest along with flora and fauna.
- ❖ Any illegal non forestry activities within a forest can be immediately stopped.
- ❖ Protection of forest and prevent deforestation which will subsequently lead toward degradation of land.
- ❖ Prevention from the loss of biodiversity and to prevent conversion of forests into agricultural lands or grazing lands or building of business or residential units.

3) The Wildlife (Protection) Act, 1972

This act is applicable to the whole of India except the state of Jammu & Kashmir. It was enacted in order to provide protection of countries' wild animals, birds, and plant species in order to ensure ecological security and conserve wildlife in India. It provides for the safeguard and the protection of the flora and the fauna.

Need for wildlife protection:

There is immense need for this due to the drastic decline in the various species of the flora and the fauna. Rapid decline in the flora and the fauna can significantly cause ecological imbalance which

affects drastically many aspects of climate and ecosystem. There were only 5 National parks in India prior to the enactment of this act.

Salient features of wildlife protection act are:

- ❖ This act emphasizes on the formation of the wildlife advisory board, wildlife wardens etc.
- ❖ This act also helped India to become a party to the (CITES) Convention on International Trade in Endangered Species.
- ❖ A comprehensive list of endangered wildlife of the country was prepared for the first time.
- ❖ Under this act it prohibits the hunting of endangered species and scheduled animals are prohibited from being traded according to the provisions under this act.
- ❖ It also provides licenses for the purpose of the transfer, sale and possession of some wildlife animals and provides establishment of wildlife sanctuaries, national parks etc.
- ❖ The act also created 6 schedules which basically provide varying degrees of protection to classes of flora and fauna and provide for the establishment of the National Tiger Conservation Authority.
- ❖ Some of the protected areas under the wildlife Protection Act are Sanctuaries, National parks, Conservation reserve, Community reserve and Tiger reserve.

4) Water (Prevention and Control of Pollution) Act, 1974

This act was enacted on 23rd March 1974. This act basically defines the water pollution and water quality standards. Basically, it is designed to assess the pollution levels and punish the polluters.

It is an act to provide control and prevention of water pollution and restoring and maintaining the wholesomeness of water.

Salient features of this act are:

- ❖ No individual shall discharge any poisonous or polluting matter detrimental to water bodies or on land or it can be into a well or in stream.
- ❖ With the consent of the State Board the trade effluent or sewage shall be regulated. The discharge must meet the standards prescribed by the State Board.
- ❖ It prohibits and regulates the disposal of polluting matter in any water bodies.

Main objectives of this act are:

- ❖ Prevention and control of water pollution.
- ❖ Maintaining or restoring the wholesomeness of water
- ❖ Establishment of the boards for the control and preservation of water pollution.
- ❖ It provides penalties for contravention of provision of this act.
- ❖ Establishment of Central and State testing water laboratories, testing and assessing the extent of the water pollution.

5) Air (Prevention & Control of Pollution) Act, 1981

It was enacted on 29th March 1981.

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It is applicable to the whole of India except the state of Jammu and Kashmir.

This act was enacted for the control preservation and abatement of air pollution. This was the first attempt to combat air pollution. This act prohibits the use of fuels that pollute the environment and the substances also helps to regulate the appliances that give rise to air pollution.

Basically, there are two boards Central and State Board which help in improving the quality of the air.

Functions related to Central Pollution Control Board (CPCB) are:

Central board's main function is to improve the air quality and to prevent, control the pollution of air in the country.

It also advises on the matter concerning the prevention and control of air pollution to the central government. Coordination with the activities of the state boards and resolving disputes arising among them.

Function of State Pollution Control Board (SPCB) are:

Planning a comprehensive program for the control, prevention, or abatement of air pollution in the State. Advising on any matter concerning the prevention, control, or abatement of air pollution to the state government. Encouraging, conducting, and participating in the investigations and research relating to problems of air pollution.

CONSTITUTIONAL PROVISIONS RELATED TO THE ENVIRONMENT ❖ Article 14

Article 14 talks about equality before law and equal protection of law.

This fundamental right impliedly cast a duty upon the state that the state should be fair while taking any actions regarding environment protection and therefore it cannot infringe Article 14.

Case Law

MC Mehta VS Union of India and others 1986¹

Shriram Food and Fertilisers, a hazardous industry, was based in a densely populated area in Delhi. There was a leakage of oleum gas from one of the units of the Shriram Food and Fertilisers Ltd. Complex at Delhi. Due to leakage of oleum gas several others were affected and one advocate also died. In this case the Supreme court of India initiated the Absolute Liability Principle stating that in case of industries that are engaged in hazardous activities the rule of the absolute liability will be applied. The industries that cause harm to the environment or to people through any accident would be held absolutely liable.

❖ Article 19(1)g

Article 19(1)g states that it is the fundamental right of citizens to practice any profession or to carry any occupation, trade, business in any part of the country with some reasonable restrictions.

According to this fundamental right the citizen cannot practice any trade or any business activities if it is hazardous to the health of the public.

Case Law

¹ M.C. Mehta And Anr Vs Union of India, 1986

Indian Handicrafts Emporium & Ors VS Union of India and Ors.²

In this case it was held that a trade which is dangerous to ecology may be regulated or totally prohibited.

❖ **Article 21**

Article 21 is the fundamental right which is given in Part III of the Indian Constitution

According to Article 21 of Indian Constitution states that —no person shall be deprived of his life or personal liberty except the procedure established by the law

According to this fundamental right every person has the right to live in a pollution free environment.

Case Law

MC Mehta VS Union of India 1987³

In this case the Supreme court of India treated the right to live in a pollution free environment as the fundamental right.

Subhash Kumar VS State of Bihar ⁴

In this case it was held that the right to get pollution free water and air is a fundamental right guaranteed under Article 21.

Damodar Rao VS S.O Municipal Corporation, 1987⁵

In this case the apex court held that polluting the environment amounts to violation of right to life under article 21

❖ **Article 48-A**

Article 48-A is Directive Principle of State Policy is given under part IV of the Indian Constitution.

Article 48-A of Indian Constitution states that the state shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.

According to this article it provides protection for the improvement of the environment and safeguarding of forest and wildlife.

❖ **Article 51-A(g)**

Article 51-A (g) is the Fundamental Duty is given under part IV-A of the Indian Constitution.

This article states that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

According to this article it imposes a fundamental duty on every individual or citizen to protect and improve the natural environment including forest, rivers, lakes and wildlife.

Article 48-A and Article 51-A (g) were added in Indian Constitution through 42nd amendment Case

Law

² *Indian Handicrafts Emporium & Ors. Vs Union of India*, 2003.

³ *M.C. Mehta vs Union of India* 1987 SC 1086.

⁴ *Subhash Kumar Vs State of Bihar And Ors.* 1991

⁵ *Damodar Rao And Ors. Vs The Special Officer Municipal*, 1987.

State of W.B VS Sujit Kr Rana, 2004⁶

In this case the supreme court held that the provisions of Article 48A and 51-A(g) should be kept in mind while interpreting any statutory provision.

❖ **Article 253**

Article 253 says that parliament has the power to make any law for the whole or any part of territory of India for implementing any treaty agreement or convention with any other countries or any decision made at any international conference or association or other body.

The Environment Protection Act, 1986 was enacted under Article 253

According to this article parliament has power to make laws for the country.

CONCLUSION

Protection of the environment is beneficial for both the people and the ecosystem. Environmental protection not only evolved as the country's fundamental law but it also made connections or linked with the human rights policy. The basic human right of every individual is to live in a pollution free environment and with dignity. Laws and provisions are made in order to make harmony between the people and the environment and understand the importance of the natural resources and ecosystem. These enactments are made in order to develop a positive attitude towards the environment and living creatures too so that a proper balance could be maintained in the surroundings.

⁶ *State of West Bengal And Ors vs Sujit Kumar Rana, 2004.*