

The Role of the Public and the Judicial Activism In Environment Protection in India



Zoology

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ABSTRACT

The natural environment maintains a balance of abiotic and biotic factors, which support healthy life on the earth. In recent years, industrialization, urbanization, and various anthropogenic activities have threatened the very existence of life on global level. Many problems like insanitation, waste disposal, depletion of drinking water, air and water pollution, acid rain, ozone depletion and global warming had been destroying the healthy environment for human and wildlife. The industrial wastes, excess use of pesticides, electronic and plastic wastes, and human induced green house gases etc. are the culprit for the polluted environment in which human, animals as well as plants cannot live a healthy life. Every country has framed some rules and regulations to protect the environment. In India, various public agencies and people raised their voices against the deterioration and degradation of environment. Indian judiciary is also supported these efforts and issued directions to the concerned government authorities to protect the environment as a whole.

INTRODUCTION-

The environment is the surrounding medium in which living beings live and lead a healthy life. The environment consists of biotic and abiotic factors which determine biodiversity on the earth. The natural environment is also an indicator for balance of abiotic factors like air, water, temperature, light, density, humidity etc. which interact with each other and form an environmental balance. This balance is upset by the over exploitation of the natural resources and industrialization without thinking of the future need. An alarming situation has been reached to save the earth.

Here we have to rethink about our policies, rules and regulations which are not able to protect the environment and the role of the public and judiciary as a whole.

THE ROLE OF INDUSTRIALIZATION AND URBANIZATION-

The Science and technological innovations with information technology revolution provided new ways for industrialization and urbanization. This process has led to uncontrolled growth of industrialization and crowded cities which in turn resulted into deforestation¹ as well as deterioration and degradation of natural resources. Many other problems like insanitation, waste disposal, depletion of drinking water¹, air and water pollution, acid rain, ozone depletion and global warming^{3,8} had been destroying the healthy environment for human and wildlife. The increasing population and their various anthropogenic activities are also posing a great threat to the very existence of natural resources and environment. The industrialization and urbanization^{1,3,8} are the main factors which are responsible for deterioration of natural resources and the environment. The industrial wastes, excess use of pesticides, electronic and plastic wastes, human induced green house gases, air and water pollution³ etc. are the culprit for the polluted environment in which human, animals as well as plants can not live a healthy life.

THE RULES AND REGULATIONS-

The Indian government framed more than 40 rules and regulations to protect the environment from degradation and deterioration^{2,4,8}. The pollution control laws⁴ are- the The Water (Prevention and Control of Pollution) Act, 1974, amended 1988; The Water (Prevention and Control of Pollution) Cess Act, 1977, amended 1992, 2003; The Air (Prevention and Control of Pollution) Act 1981, amended 1987; Noise Pollution (Regulation and Control) Rules, 2000, amendments 2002; The River Boards Act

1956; The Environment (Protection) Act 1986, amended 2002; The Hazardous Wastes (Management and Handling) Rules 1989, Amendments 2000 and 2003; Biomedical Waste (Management and Handling) Rules 1998; The Batteries (Management and Handling) Rules, 2001; The Industries (Development and Regulation) Act 1951; The Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996; The Municipal Solid Wastes (Management and Handling) Rules 2000; Ozone Depleting Substances (Regulation and control) Rules 2000. The Public Liability Insurance Act, 1991, amended 1992. The laws relating to environment, forest and wild life^{4,8} are- Forest (Conservation) Act, 1980, amended 1988, 2003; The Wild Life (Protection) Act 1972, Amended 2002; The National Environment Appellate Authority Act, 1997; The National Environment Tribunal Act, 1995; State/ Union Territory Minor Forest Produce (Ownership of Forest Dependent Community) Act, 2005 – Draft; The Prevention of Cruelty to Animal Act 1960; and The Biological Diversity Act, 2002, Amended 2003.

THE CONSTITUTION OF INDIA-

The constitution of India also has some provisions as directive principles which are directed towards the state to protect the wild life, natural resources and health of the environment^{2,8}. Article 48A - state that the state shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country. The article 51A (g) of fundamental duties state that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wild life, and to have compassion for living creatures. The article 243G gives powers, authority and responsibility to Panchayat and the article 243W to Municipalities to prepare plan and schemes to protect and save the environment for sustainable development². The Article 21 guarantees a fundamental right to life and personal liberty which the Supreme Court of India has interpreted it by including the right to wholesome environment. In its various judgments, the Court also held that the right to life includes right to clean environment, drinking water and pollution free atmosphere⁸.

THE VIOLATION OF LAWS-

In spite of these laws and provisions, their enforcement is lacking in proper manner. Therefore the violators are able to escape easily from hands of the govt. enforcement agencies. The various incidents like killing of Tigers, Elephants, Rhinoceros and other wild animals by poachers⁵, release of industrial wastes

into rivers and coastal areas, release of poisonous gases into air e.g. Bhopal gas tragedy and declining of forest cover - deforestation are the proof of the lacking of enforcement of these laws through the government agencies^{5,8}. According to the Wildlife Protection Society of India (WPSI) about 972 tigers and 3968 leopards have been killed from 1994 to 2013. The unlawful international demand of bones and skins of big cats is the main reason for the unrelenting poaching pressure on these animals⁶.

THE ROLE OF PUBLIC AGENCIES IN PROTECTION OF ENVIRONMENT-

Some of the environmentalists, social activists and NGOs are playing the active role in raising the crucial environmental issues. Some of these are the Energy Resource of India (TERI), Development Alternative (DA), All India Jeev Raksha Bishnoi Sabha, Annasaheb Kalyani Foundation, Central Himalayan Environment Association (CHIME), Environmental Conservation Group (ECG), Forum of Environmental Journalists of India (FEJI), Society for Clean Environment (SOCLEEN), Society for Protection on Environment Kerala (SPEK), Tata Institute of Social Sciences (TISS), Wildlife Preservation Society of India. The environmental movements like the Chipko Movement in Himalayas, the Appiko Movement in the Western Ghats, Vana Mahotsav initiated by K.M. Munshi, and also the environmental organizations such as the Green Peace and World Wide Fund for conserving forests and wildlife were also focused on environment protection⁷. Their true efforts led the Indian judiciary to issue directions to the government of India to take prompt actions to protect and save the environment.

THE ROLE OF JUDICIARY IN ENVIRONMENT PROTECTION-

The courts of India have played a major role in protection of environment in India. The Supreme Court of India accepted many PIL (public interest litigation) related to environmental issues and issued directions⁵ in matters like ban on smoking of tobacco in public places all over the country, pollution of the holy river, the Ganges and the Yamuna, pollution of underground water, choking of Delhi, Calcutta and other metros due to air pollution, which rendered great service to humanity. The directives of the Supreme Court went to the extent of spreading environment awareness and literacy as well as the launching of environmental education not only at school level, but also at the college level. The court also issued directions to All India Radio and Doordarshan to focus their programmes on various environmental aspects and to state governments to take steps for environmental education.

The power of the Supreme Court to issue directions under article 32 and that of high court to issue directions under article 226 have made use of these powers to deliver environmental justice and to check immediate and future assaults on the environment². It is the judiciary activism that environment as a subject is added in the education system and thereby spreading the knowledge and awareness about the environment in the society.

CONCLUSION-

The responsible judiciary and the citizens helped in protection of the environment. However, this effort is not sufficient to check the deterioration of the environment. The corruption in the system and lack of awareness in the society are the main culprit for this grim situation of the whole environment. Making the public aware and sensitive towards their right to live in a pollution free environment is the need of the hour. A sense of responsibility as well as awareness in the masses about healthy environment can achieve the desired results. It is our personal duty to make this effort fruitful.

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