



Environmental Protection Of Coastal Zone In India

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ABSTRACT

India has long stretches of coastal line, covering Eastern part, Western part and Southern part of the country. India has two important islands, for example, Andaman and Nicobar Islands and Lakshadweep Islands. Any damage to coastal flora and fauna will degrade the marine biodiversity extensively. In order to protect the coastal line from environmental degradation from industrialisation, a notification, for environmental management of coast, was brought under the provisions of the Environment (Protection) Act, 1986 in the name of coastal regulation zone notification, 1991. However, in order to remove difficulties in this notification a new coastal regulation zone notification, 2011 has been enacted for proper environmental management in coastal line in India. The present article endeavours to review the legal provisions and analyses its effectiveness.

KEYWORDS

coastal management, environmental degradation, sustainable development, polluter pays principle

INTRODUCTION

Coastal line ecology is sensitive one like the terrestrial ecology. Prior to 1991, in India there was no specific law to regulate and manage different activities at coastal line, which could be detrimental to coastal line flora and fauna and also to the biological diversity of marine ecosystem. In the year 1986 the Environment (Protection) Act was enacted for providing protection to the ecosystem and ecology available in India. Under this legislation, the coastal regulation zone notification, 1991 was enacted for proper management of coastal ecology. However, in the year 1994, an amendment was brought to this notification, thereby, the stricter provisions were relaxed by which the different activities which could have been detrimental to coastal ecology could not be controlled much after this amendment. The coastal regulation zone notification, 2011 was enacted to replace the older notification of 1991, in order to provide reasonable and appropriate environmental management at the coastal line. In the new notification, the major change was brought by segregating the notification to be applied for Indian islands, for example, Andaman and Nicobar Islands and Lakshadweep Islands.

IMPORTANCE OF CRZ' CASE

In *Indian Council (CRZ)* case, it was clearly mentioned by the petitioner that though coastal regulation zone notification, 1991 has been enacted in India but the provisions of this notification was never seriously implemented by the enforcement agencies in the coastal stretches of India. The petitioner also challenged the 1994 amendment to this notification claiming that this amendment has reduced the importance of coastal regulation zone notification, 1991², because, it relaxes vital provisions by which any hazardous activity which could be controlled on coastal line can be carried out without much control. Because of this anomaly, the Supreme Court clarified that if any dispute comes because of this amendment of 1994 than the petitioner can approach before the state high court for seeking a remedy. In this case the apex court also examined the scope of four zones specified in CRZ, 1991. The four zones have been divided within 500 m of high tide line towards land side from the low tide line. For example, CRZ I, applicable to ecologically sensitive area, basically the low tide line area, CRZ II is applicable to those coastal stretches which have been developed prior to commencement of CRZ, 1991, CRZ III is applicable to those stretches of coastline which falling within rural area and CRZ IV is applicable to coastal stretches of Andaman and Nicobar Islands and Lakshadweep Islands.

IMPORTANCE OF SHRIMP CULTURE³ CASE

In *shrimp culture* case, the honourable Supreme Court received the petition that the coastal stretches of Tamil Nadu are exposed to intensive and semi-intensive shrimp culture affecting the coastal ecosystem in spite of having CRZ, 1991. The honourable Supreme

Court found that CRZ 1991 was not properly implemented and one of the main reasons was the 1994 amendment which relaxed many stricter provisions. The apex court directed the National Environmental Engineering Research Institute⁴ to investigate the coastal stretches of Andhra Pradesh and Tamil Nadu and find out the quantum of damage caused to ecologically fragile area because of commercial aquaculture. The NEERI in its report mentioned that commercial aquaculture adversely affecting coastal line flora and fauna. The farmers are converting their agricultural land for commercial aquaculture purposes. The investigation report confirmed huge contamination of groundwater also. Overall, the NEERI clearly mentioned that there is degradation of mangrove ecosystem.

The Alagarswami report (1995) clarified that because of commercial aquaculture the traditional fishermen are having difficulty in approaching to sea, thereby, affecting their right to passage. The Alagarswami report also mentions that, there is problem of salinisation on the agricultural land, the water quality of the groundwater and mangrove ecosystem is at danger.

The apex court reminded certain international environmental principles for settling most of the environmental crisis in India. The Supreme Court mentioned the importance of sustainable development and stated that this principle should be the guiding principle to provide solution to most of the environmental cases. The court also stated that environmental impact assessment to be conducted before granting environmental clearance to commercial aquaculture. The apex court reminded the importance of intergenerational equity that the present generation should not take the steps, which will impair certain rights the future generation. Polluter pays principle can be applied to commercial aquaculture for paying the cost of compensation because of causing pollution.

The honourable Supreme Court also reminded the mandates of Article 48 A of the Indian Constitution and stated that the state cannot avoid its obligatory duty under this article, because not following this duty will directly affect the right of the present and future generation. The apex court also examined the scope of Water (Prevention & Control of Pollution) Act, 1974 and clarified that the sea water shall fall under the purview of this legislation. Similarly, the wild animals in the coastal stretches are protected under the purview of Wild Life (Protection) Act, 1972.

Finally, the apex court issued directions for environmental protection of coastline. The court made a point that no agricultural land shall be converted to aquaculture farming, because land will be un-fit for cultivation for several years. The court stated that there is a necessity for establishment of an authority under

subsection 3 of section 3 of the Environment (Protection) Act, 1986 to ensure that the provision of the notification of 1991 is properly. The most interesting part that the apex court has mentioned while delivering the judgement in this case that the authority so constituted as mentioned above shall use the principle of precautionary principle and polluter pays principle for proper implementation of the provisions of the notification. The apex court made it a point that no shrimp culture or commercial aquaculture shall be done within the CRZ. Therefore, from this discussion it is clear that the notification of 1991 should be replaced with the new one so that proper implementation of the provisions could be possible in order to maintain environment at the coastal stretches in India.

COASTAL REGULATION ZONE NOTIFICATION, 2011

The coastal regulation zone notification, 2011⁵ was enacted to remove most of the difficulties faced by the earlier notification on CRZ, 1991. Therefore, the new coastal regulation zone notification, 2011 has replaced the older notification of CRZ 1991. CRZ II has strengthened its provisions for the purpose of protecting the environmental resources, which are available at the coastal line in India. Unlike CRZ, 1991 the current CRZ II makes few changes for the purpose of comprehensive application of this notification to protect environmental resources at the coastline. For example, in the CRZ 1991 notification, out of four zones the fourth zone was related with the regulation of coastal stretches in Andaman and Nicobar Islands and Lakshadweep Islands, however, in CRZ II notification, a separate document has been prepared in the name of Island Protection Zone Notification, 2011, which would be exclusively applicable for the regulation of industrialisation and other activities, which are detrimental to coastal line flora and fauna and other environmental components. The step has been taken under this new notification of CRZ II, is basically for the purpose of paying special attention to islands coastal line flora and fauna. Therefore, the CRZ II shall be applicable for the prevention and control of setting up of industries and expansion of the existing industries including their operation which are hazardous in nature. Accordingly, all the above-mentioned industries and activities which are the subject matter of the Hazardous Substances (Handling, Management and Transboundary Movement) Rules, 2009 shall come under the purview of CRZ II.

From the preamble of this CRZ II, it is clear that the provisions are meticulous and with the proper implementation of the provisions of this notification, there will be possibility of striking balance between developmental activities and protection of coastal line flora and fauna.

SUPREME COURT ON COASTAL REGULATION ZONE NOTIFICATION, 2011

In the older notification of CRZ, 1991, because of 1994 amendment, relaxation of stringent provisions was witnessed. However, under this CRZ II most of the difficulties faced during the functioning of CRZ, 1991 notification, have been removed. The honourable Supreme Court of India has mentioned the effectiveness of this CRZ II notification in many cases. Below, there are few cases where the apex court has examined the effectiveness of CRZ II.

In *Lakshadweep Islands*⁶ case it was asserted by the honourable Supreme Court that coastal regulation zone notification, 2011 has been enacted for the purpose of protecting the unique environment of Indian islands, which will also extend to protect the marine area of such islands. The CRZ II is effective in promoting the development with the help of sustainable integrated management plan.

In *nuclear power plant*⁷ case, it was stated by the honourable Supreme Court that the CRZ, 1991 has been replaced by CRZ, 2011 and now allows the establishment of atomic Power Station in the first category of CRZ. However, desalination plant cannot be established in the first category of CRZ.

In *Green Lagoon resort*⁸ case, it was clarified by the apex court that

once the coastal zone management plan has been prepared by the authority while following the mandates of CRZ, 2011 notification the concerned management plan shall be valid.

In *Yasoraminfra developers*⁹ case, the honourable Supreme Court asserted that once matter has been decided under the older notification of CRZ, 1991, cannot be reopened under CRZ, 2011 notification.

Therefore, the honourable Supreme Court has analysed the efficiency of CRZ II in the above-mentioned cases and found that the provisions are helpful for protection of coastal environment and marine area too.

CONCLUSION

Coastal environment is vulnerable to the hazardous activities of industries and therefore, needs to be protected with the comprehensive provisions of law. In this regard, the older notification of CRZ, 1991 was diluted with the 1994 amendment, however, the CRZ II came forward to rescue and protect marine area including coastal environment. Now, under the new notification of 2011, Andaman and Nicobar Islands and Lakshadweep Islands both have been paid special attention for the protection of coastal line in the respective islands. It is interesting to note here that, under CRZ II hazardous industrial activities have been allowed with due care and diligence and also allowed such activities which require seashore facilities, for example, greenfield airport at Mumbai and installation of atomic power plants. The CRZ II will be effective, once efficiently and comprehensively implemented by the enforcement agencies in India.

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