

LEGAL ISSUES AROUND ENVIRONMENTAL POLLUTION

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ABSTRACT

Environmental pollution refers to "contamination of physical and biological components of the earth atmospheric system to such an extent that normal environmental processes are adversely affected " , Environment refers to the surroundings us , which provides a shield for human life .there must be awareness in the society on the most crucial subject on which life depends in an ideal society the civilised person must try to equate the balance between the economy and environmental matters but these days strikes a great imbalance between the societal needs and harm to environment the rapid growth of industrialisation, globalisation , no doubt contribute a great achievement to raise one nation's economy , however have major impacts on Environment behind it , we are unfortunate about the issue even at primary level we are using a non -biodegradable substances use of polythene bags , more carbon emission things , contributing a great loss to our environment and consequences will be seen sooner or later . There are various legislation provides a legal framework like under law of torts concept of nuisance , strict and absolute liability under Constitution of India Article -21 which includes Right to live in safe and pure environment, directive principles of state policy , fundamental duties , National Green Tribunal (NGT), Central pollution control board (CPCB) are effective enough but need to create awareness and to make safe environment at primary level .

KEYWORDS : Environmental pollution , awareness , non -biodegradable substances ,

national green tribunal , central pollution control board

INTRODUCTION

Now a days, Environmental pollution demanding an alarming situation among one of the contemporary issues around us , there is need for strong and effective regulation of environment agencies which are responsible for its protection . India population reached about 1.21 billion and it's economy growth at 8.5% the fastest after China overpopulation demands growth of industrialisation, more utilisation of resources or can say over utilisation of resources threatening to exploitation of resources pollute water bodies , air , forests, landfills resulted into birth of water pollution , air pollution and noise pollution broadly.

Here are some legislation which laid down various provision in relation to safeguard of environmental pollution

1. Constitution of India
2. Law of torts
3. Indian Penal Code
4. National Green Tribunal Act
5. Environment Protection Act
6. Air pollution Act
7. Water Pollution Act
8. Wildlife protection Act
9. International Environmental law
10. Stockholm Conference

PROTECTION UNDER ENVIRONMENT PROTECTION ACT

The Environment Protection Act , 1986 came into force soon after the Bhopal gas tradeegy which occurred due release of toxic gaseous substance from Union Carbide Plant in the city

of Bhopal in 1984 the umbrella legislation covers almost every law also filled gap in existing law , a right hand for Stockholm conference it defines Environmental pollution section 2(b) as presence of environmental pollutant in the environment also environment pollutant means any solid , liquid or gaseous substance present in such concentration which is more than optimum range , tend to be injurious to environment.

The Environment Protection Act set up with objective as protection and improvements to environment

1. empowering the central government for madate of preventing environmental Pollution in every forms and tackle such issues.
2. one of the comprehensive legislation almost covers every areas.
3. The term given environment which includes land ,water and air their relationship with human being and other living creatures,govern all area.

The act is a result of international adoption of a very remarkable concept of environmental Pollution Stockholm conference article 253 provides a power to legislate laws on international agreements for their binding effect section 3 to 6 deals with the power of the central government:

- I) to plan and execute a nation model for prevention,control and abatement of environmental Pollution.
- II) imeasure and to draw standards on quality of air .
- III) standard and instructions for emissions or discharge of environmental Pollution.
- IV) restrictiob on stringent areas which are health hazardous.
- V) Remedies , standard, procedures laid down by them for handling of hazardous substances.
- VI) establishment of enviborates for inspection and functions carried out by as prescribed by central government.
- VII) There is also procedure for punishment for anyone who violates or does any act in

contraventions of any provision many provides sentence upto 5 years or fine upto 1 lakh rupees or both .

Here are some notifications issued under environmental protection act

- i) costal regulation zone notification (1991)
- ii) environmental impact assessment

PROTECTION UNDER AIR POLLUTION ACT

There is unworthy requirement of air for all creatures on this planet but since few years are experiencing a greater increment of pollutants in the air a serious concern in the relation to the the parliament has passed air (pollution and control of pollution) act 1981 to prevent and control air pollution in India.some recent study days as per Lancet journal in January 2021 there is high pollution in the air which bears pregnancy losses on India and few other nation in South Asia,cities of Delhi, kolkata and Mumbai are top at the list of most pollutes city as per World air quality report.

Section 2 (a) provides air pollutants as any solid , liquid or gaseous substance can cause harm to human being , plants and other living or micro organisms it means presence of any such pollutants which make it difficult to inhale for daily biological process. Section2(g) provides a set up a central pollution control board (CPCB)powers to check pollution and prescribe procedures for control of Pollution from various sources.

According to world health organization the air pollution defined as substances put into the air by activity of man in such concentration which is sufficient to cause harmful effect to health , vegetation and property or interfere with enjoyment of his property .

ENVIRONMENTAL POLLUTION UNDER WATER POLLUTION ACT

Apart from air , environmental and other pollution water pollution is extensively increasing since time ago water is cause of the earth , importance of it should be taken into

consideration , daily intake, performance of domestic and industrial activities required a major part or lifeline of our ecological existence .it is fundamental unit and force to run the life of human being but these days it is in crisis , rapid growth of industrialisation , urbanisation , globalisation , a lot of sewage effluent accumulating environmental pollutants in the environment imparts a great pollution of water . Section 25 empowers board to check no person is allowed to set up an industry or start a new operation or any treatment of sewage of harmful effluent without prior approval or notice .

THE CONVENTION IN PROTECTION AND USE for TRANSBOUNDARY WATER COURSES AND INTERNATIONAL LAKES (WATER CONVENTION)

for sustainable use of water resource also protocol on health and health by UNECE AND WHO - Europe which is legally binding for prevention , accumulation and reducing the water borne disease besides the surfacial water the ground water is on more demand of pollution and we are dependent on it for our daily use in major cities such TDS of water is very high which includes a lot chemical present in water . Halbury's laws of England defines pollution in water and which changes the natural qualities of water , including its temperature.

ENVIRONMENTAL POLLUTION PROVISION UNDER INDIAN CONSTITUTION

The protection of environment under Constitution is mandate our constitution covers almost all things as wholesomeness. It is commitment for a welfare state to preserve the society as provided under directive principles of state policy , fundamental duties for its protection after the key development of Stockholm conference , Article -253 provides a power to parliament to legislate on international matters after this advent there were various provisions incorporated under Constitution Article 21 provides right to life and personal liberty Article 48-A remedies

procedure for the enforcement of fundamental rights under article -32

INTERNATIONAL ENVIRONMENTAL LAW

"Nature never did the betray the heart that loved her "

William Wordsworth

Our ancestors were great worshiper of nature around us all our source of joy , strength and happiness derived from inherent peace but the greed of developing economy with the passage of time we have seen very unkind behaviour towards nature the catastrophic growth of population, urbanisation, globalisation , industrialisation , increased use of science and technology threatened the nature and disturbed the balance the mankind and environment , there undesirable needs increased and deterioration of environment started to achieve environmental protection world become United in 1972 at United Nations to draw attention on environmental issues and make some plan and arrangements on this global issue , the first ever Earth summit At Rio - de - Janeiro in 1992 on " environment and development with an attempt to develop sound measures for environmental protection".

Trail smelter Arbitration case

The first ever known case on Environment in 1906 , the compensation was granted to United States of America by Canadian government and formulated the principle of sic utere tuout alienium non laedas means enjoy your own property in such manner not to injure the right of another

Principle 7 of Stockholm conference provides" state should take all necessary steps to prevent pollution of sea from hazardous substances which harm human , marine life and interfere with legitimate use of sea "

Vienna convention in 1985

The Vienna convention 1985 for the protection of the ozone layer was the first attempt to protect the ozone layer , the hazardous Ultravirus rays

(UV) of the sun from direct contact, but overruling Global warming the same issues of ozone depletion proof of ozone depletion could be seen in Antarctica ozone hole but the era of COVID and lockdown seemed as blessings for nature the nature healed it themselves but the economy faced a large attack a specific treaty known as Montreal protocol on substances that deplete ozone layer

ENVIRONMENTAL POLLUTION REMEDIES UNDER LAW OF TORTS

Environmental pollution is a global concern there are wide challenge to environmental injury or harm to nature, there is requirement of specific legal remedies curl that situation these are some situations

- 1- Nuisance
- 2- Trepass
- 3- Negligence
- 4- strict liability

Empowers to executive magistrate to take requiring action for stopping any kind of nuisance also no question raised on this power section 268 of the Indian penal code deals with public nuisance if any person does any such act harm to public right shall be punishable upto rupees 200. section 290 for any kind of noise pollution as an offence ***in K Ram Krishnan vs. state of Kerala*** the court held that smoking at public place would amount to public nuisance section 277 provides punishment for anyone who voluntarily corrupts or fouls the water of public spring or reservoir ***MC Mehta vs. union of India*** (oleum gas leak case) the court laid down an important principle of absolute liability leaving no defence one must liable for the act.

NATIONAL GREEN TRIBUNAL ACT

Even after all convention and conferences there was great requirement of effective mechanism for providing remedy or justice also a speedy manner to determine environmental conflicts supreme court in 'Indian council for environmental legal action vs. union of India' there is need of independent specialised

environmental codes and the national environmental tribunal Act 1995 and national environmental Appellate authority Act 1997 enacted.

CONCLUSION

"Environmental pollution terrorism and many other global threats do not stop at borders We all bear global responsibility and does need a global identity to enable us to cope with them We must learn to integrate different levels of identity in ourselves"

Klaus Schwab

So from very far discussion it is concluded that in the era of 21st century the race of technology and overt impact on environmental issues should be concern of every person in the society The world faces a huge concern on several environmental issues such as global warming climate change and danger wildlife species The current war of Russia and Ukraine harmed a lot of to environment release of hazardous gases substances in air there is need to control use of arms and ammunition deadly as weapons, nuclear bomb can be seen harmful for unprecedented years to go The nature has a strongly tendency to heal it over self also nourish the creators of it the era of lockdown was great time for environmental healing so we should come forward at least in a week should plant a tree despair and clean and fresh air avoid wastage of water use of resources in keeping the lime light of sustainable development.

REFERENCES/BIBLIOGRAPHY

- https://books.google.co.in/books?hl=en&lr=&id=zxn3TgTOxggC&oi=fnd&pg=PP1&dq=environmental+pollution&ots=A5uMu-Elvo&sig=k8AlvswHeCn_U0bVnNhJtzutV5E&redir_esc=y#v=onepage&q=environmental%20pollution&f=false
- ***A book on environmental law by DR. sukanata k. nanda***
- <https://heinonline.org/HOL/LandingPage?handle=hein.journals/intlegp11&div=17&id=&page=>