

THE INDIAN ENVIRONMENTAL LAWS AND CLIMATE CHANGE

Mr. SAGAR VILAS SHELKE

Research Scholar of JJTU, Rajasthan.

Email- advsagarshelke@gmail.com

ABSTRACT

World facing the threatening issue is the emergence of Global Warming due to climate change for very existence of life on earth. Global climate change is the utmost severe environmental anxiety caused due to accumulation Global Warming which was due to rise in levels of Green House Gases into the atmosphere. The impact of climate change is severe in developing nation like as India. In our nation the impact climate change adversely affect the forestry, agriculture, natural resources, as well as change in the temperature. The important legislations relating to environmental protection enacted by parliament. This paper discusses the concept of climate change, its impact of environment, the present legal position of climate change in India with an overall prospective future and the judicial activism played by the Indian judiciary in protecting the environment against climate change and global warming. A alteration in worldwide climate change patterns apparent from mid of twentieth century onwards, accredited mainly to the increased level of atmospheric (CO₂) carbon dioxide produced by the use of fossil fuels A study of climate change is important from this perspective because it is considered that if human activities that causes detrimental climate change is not curtailed, the survival of entire human race is under jeopardy. Ever since man started discovering the sector of nature owing to scientific inventions and knowledge, he has utilized discovered knowledge to destroy nature itself.

Keywords- Global Warming, climate change, environmental protection, atmosphere.

INTRODUCTION

Nowadays, the world is facing the big problem of the climate change, which increases the level of CO₂ into the stratosphere. The human activities are the most important responsible factor for increasing radical changes into the atmosphere. This research paper is identifying the present legal position of climate change into the India with the overall perspective future. The climate change is one of the greatest challenges by all the nations of the globe. Climate change occurred as impact of the anthropogenic activities like combustion of fossil fuels, industrial processes, deforestation, greenhouse gases release into atmosphere climate change affects population through the altering the basic life conditions, food availability by causing habitat loss and Climate change is caused by the release of Green House Gases into the atmosphere. The climate change is characterized by global warming. It results in frequent forest fires, devastation in vegetation and crop failures. The United Nations Framework Convention on Climate Change (UNFCCC) defines climate change as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”. Climate change affects the entire global economy. The impacts of climate change are expected to affect seriously affect the livelihoods, health and educational opportunities of people living in poverty, their chances of survival. Climate changes occur natural phenomena such as earth rotation, earthquakes, shifting of continents and se waves; and human factors (greenhouse gases-GHG).fragmentation. This paper discusses the concept of climate change, its impact of environment, the present legal position of climate change in



India with an overall prospective future and the judicial activism played by the Indian judiciary in protecting the environment against climate change and global warming.

OBJECTIVES

- i. To find out the impact of climate change throughout the India
- ii. To examine the causes of climate change.
- iii. To suggest some measures for mitigation of climate change.
- iv. To study the constitutional provisions as well as legislative provisions relating to environmental protection.

IMPACT OF CLIMATE CHANGE

The impact of climate change over the human being as well as natural resources, economic activity etc. the climate change affects population by changing basic life even including food availability and by causing habitat loss and fragmentation. The temperature is increasing climate change. So that the greenhouse gases radiations are increasing even though other gases such as CO₂, CH₄, CFC is becoming a responsible factor for climate change. The climate change is harmful to human health as well as living creature also.

The serious potential threat arising from climate change is water scarcity. The glacier melts to rise flooding and impact on water resources within next 2 to 3 decades. The implication of melting glaciers and sharing of river basin water resources pose a formidable challenge and lead to acute shortage of water for farming as well as drinking.

The impact of climate change on the coastal areas that is the coastal ecosystem will be affected by ocean level increase as well as temperature also.

The high density of population in the mega-delta regions will be risk because of flooding. Thus the sea level increase could hazardous industries and fish productivity.

The impact of climate change on the agriculture that is the surface warming and shifts in rainfall could decrease crop yields and these will also be reductions in arable land with resulting preserves upon the agricultural output.

Its impact on Biodiversity resulting from land use cover and population pressure. The coastal line marine wetlands, tropical ecosystem, species like as mangroves and coral reefs are threatened through alteration in temperature increasing ocean level and CO₂ in the atmosphere.

Its impacts on Health, thus rising temperatures hydrological cycle levels to an increase in temperature related illness, health impact which is connected with the impact of weather events such as drought and flood.

The rapid industrialization, modernization and urbanization have resulted extreme pollution. The increasing issue of deteriorating environmental quality, developing nations like India have passed comprehensive legislative enactments to control over pollution.

Constitutional Perspective on the protection of Environment and climate change

Our Indian constitution is one among some constitutions in the world that have provisions for the protection of environment. Such a important provisions are as follows-

Article 21 is stated that "No person shall be deprived of his life or personal liberty except according to procedure established by law." So the right to life including right to clean environment is a fundamental right of every individual.

In Rural Litigation and Entitlement Kendra, Dehradun vs. State of Uttar Pradesh, (AIR 1985 SC 652) for the first time through not directly, recognized the right to life include right to clean environment.

Article 47 of the Indian Constitution stated that, "The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall Endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health." The responsibility of the state regarding raising the level of nutrition as well as the standard of living and to improve public health.

Article 48A of the Indian constitution stated that, "The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country".

Article 51(A)(g) of the Indian constitution stated 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."

By the 42nd Constitutional amendment, 1974 stated that the responsibility of the State Government to protect, preserve as well as develop the environment and to safeguard the forests and wildlife of the nation. Then, under Fundamental Duties, makes it the fundamental duty of every citizen to protect and develop the natural environment containing rivers, forests, lakes and wildlife as well as to have compassion for living creatures.

Statutory perspective on the environment protection & climate change

The United Nation conference on the protection of environment which was at Stockholm in the year 1972 led to make various legislations for the protection as well as safeguard the of environment the various enactments such as Air Act, Water Act, and forest conservation Act. They are as follows-

Environmental Laws on Climate Change

The Air (Prevention and Control of Pollution) Act, 1981- In this Act containing the prevention, control and abatement of air pollution. The Energy Conservation Act of 2001- This act stated that to provide for well-organized use of energy as well as its conservation and for matters related therewith or incidental thereto. Energy Conservation (Amendment) Act, 2010, to amend the Energy Conservation Act of 2001 Electricity Act 2003, Amended 2007-It contains to better coordinate growth of the power sector by providing inclusive outline for power development. The Indian Forest Act of 1927 -it contains to consolidate the law relating to forests, the transit of forest-produce and the duty livable on timber and other forest- produce. Forest Conservation Act of 1980-it provide for the conservation of forests and for matters related therewith or ancillary or incidental thereto.

The Water (Prevention and Control of Pollution) Act 1974 The Air (Prevention and Control of Pollution) Act 1980, The Indian Forest Act, 1927. The Wildlife (Protection) Act, 1972. The Forest (Conservation) Act, 1980 The Public Liability Insurance Act, 1991., The National

Environment Tribunal Act, 1995.,The National Environment Appellate Authority Act, 1997.,The Biological Diversity Act, 2000,The Environment (Protection) Act, 1986.,The Expert Committee on Impact of Climate Change 2007,The National Action Plan on Climate Change, 2008.

Environmental Impact Assessment-

The National Green Tribunal Act, 2010-This act provide for the establishment of a Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons or property and for matters concerned therewith or incidental thereto.

The National Environment Appellate Authority Act, 1997-this act provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes, shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters concerned therewith or incidental thereto.

The Coastal Regulation Zone Notifications, 1991, 19 February 1991, amended 16 August 1994 and 18 April 1996, to impose the following restrictions on the setting up and expansion of industries, operations or processes, etc., in the said Coastal Regulation Zone. Other

The Indian Wildlife Protection Act, 1972, amended 1999 The Wildlife (Protection) Act) Amendment Act, 2002-this is to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country.

Biological Diversity Act, 2002-this is to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

Recycled Plastics Manufacture and Usage Rules,1999. This act defines the rules for the manufacture as well as the use of containers & recycled plastics carry bags.

Role of Indian Judiciary-

The Indian Judiciary has exhibited an enlightened judicial creativity and foresight whenever it had a chance to decide issues relating to environment, climate change, and sustainable development. Some of the revolutionary judgments on sustainable development have become a beacon light and guiding force to the environment movement in India. Sustainable development means a kind of development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. The recognition of sustainable development as a viable concept for environmental protection by the Supreme Court marks the new era of judicial activism for environmental protection. In *S. Jaganath v. Union*

of India, (AIR 1997 SC 811), the Supreme Court held that the Government of India has to act keeping in view of the principle of "Sustainable Development", in Taj Trapezium Zone case,



(AIR 1997 SC 734) the Supreme Court held that there is no longer any contradiction between “development” and “ecology” and that the principle of sustainable development is accepted. In *Goa Foundation, Goa v. Diksha Holdings (Pvt.) Ltd.*, (AIR 2001 SC 184), the Supreme Court held that, “The Society shall have prosper, but not at the cost of the environment and in a similar vein, the environment shall have to be protected but not at the cost of the development of the society- there shall be both development and proper environment and as such, a balance has to be found out and administrative actions ought to proceed in accordance with the same. In *Goa Foundation v. The Konkan Railway Corporation*, (AIR 1992 Bombay 471), the Bombay High Court held that no development is possible without some adverse effect on the ecology and environment but the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment. The balance has to be struck between the two. In *People United for Better Living in Calcutta v. State of West Bengal*, (AIR 1993 Cal 215), the Calcutta High Court observed that, “in a developing country there shall have to be developments, but the development shall have

CONCLUSION

There is an accord that the rising concentrations of greenhouse gases in to the stratosphere are raising global temperatures as well as the climate of the earth is altering, prevailing weather pattern, with the sterling impacts new knowledge and technical as well as policy solution are critical when the rural poor persons of the developing countries are to free pressure from climate change. In our nation numerous rules, regulations & policies are enacted on the climate change. There is a need to maintain ecological balance with the sustaining nature. So the sustainable development is necessary for the protection of the environment protection. There is a need of time to maintain clean and green earth.

REFERENCES

- 1 Agarwal P.K. Mail, R.K., 2002. Climate change and rice yields in diverse agro-environment of India II Effect of uncertainties I scenarios and crop models impact assessment. Climate Change
- Richard baron, 2003, “International Emissions Trading: from Concept to Reality.” International Energy Agency: Paris.
- Climate Change 2004: Mitigation, Summary for Policy Makers and Technical Summary of the Working Group III Report, Intergovernmental Panel on Climate Change (IPCC), Geneva, Switzerland, 2004.
- International Energy Outlook 2005, US Department of Energy, Energy Information Administration of Government of United States of America, 2005.
- Shyam Divan, Armin Rosencranz, *Environmentallaw And Policy In India: Cases, Materials And Statutes*, (2002, 2nd ed.) at 87-89.
- Environmental Legislation in India (Encyclopedia of Environment), Vol. 4 by R.K. Gupta
- Doabia TS; Environmental and Pollution Laws in India, vol. 1 Edition. 2005 Wadhwa Publication, Nagpur.



- Leelakrishnan P; Environmental Law in India, Third Edition. Lexis Nexis, Butterworth, Delhi, 2004
- P.S. Jaswal and NishthaJaswal, Environmental Law, 48 (Allahabad Law Agency: Haryana, 3rd Edn., 2009).