

THE ROLE OF AN INDIVIDUAL IN THE PROTECTION OF ENVIRONMENT

¹PRASANNA.S

¹ Student, 4th YEAR ,BALLB(HONS), Saveetha School Of Law, Saveetha Institute Of Medical And Technical Sciences, Saveetha University ,Chennai-77,Tamilnadu,India.

²DHIVYA.R

² Assistant Professor Law, Saveetha School Of Law, Saveetha Institute Of Medical And Technical Sciences, Saveetha University, Chennai-77,Tamilnadu,India.

¹prasannastomp367@gmail.com , ²divyar.ssl@saveetha.com.

ABSTRACT:

Environmental degradation in India has been caused by a variety of social, economic, institutional and technological factors. Rapidly growing population, urbanization and industrial activities have all resulted in considerable deterioration in the quality and sustainability of the environment. The importance of Judiciary in a democratic setup for protection of life and personal rights can hardly be overestimated. Environmental protection is a fundamental duty of every citizen of this country under Article 51-A(g) of our Constitution which reads as follows, "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."

Keywords: urbanisation, deteriorating, sustainable, population, protection

Aim of the Study:

To look into the Constitution provisions relating to environment law, study the local community perspective, analyze the various case laws

HYPOTHESIS:

Ho: The individuals are not acting as per fundamental duties in protection of environment.

Ha:The individual should protect the environment.

RESEARCH METHODOLOGY:

This is a doctrinal research and all materials collected are secondary data.

INTRODUCTION:

Environment is the wellspring of life on earth like water, air, soil, etc., and determines the presence, development and improvement of humanity and all its activities. The concept of ecological protection and preservation is not new. It has been intrinsic to many ancient civilizations. Ancient India texts highlights that it is the dharma of each individual in the society to protect nature and the term 'nature' includes land, water, trees and animals which are of great importance to us. . In the 'Atharva Veda', the ancient Hindu Scepters stated "What of thee I dig out let that quickly grow over".

At the same time, new innovations like, thermal power, atomic plant and so on without any sufficient natural assurance pose another danger to the situations, the aftereffect of which results in issues like global warming, climate change, acid rain, etc. Moreover, according to pattern of Indian legislature to make a number of legislations as opposed to addressing the reason for failure and disappointment, and passing new bills consistently is just like 'old wine in new bottle'. Therefore, there arises a requirement for a comprehensive analysis of the protection of the environment. In recent years, there has been a sustained focus on the role played by the higher judiciary in devising and monitoring the implementation of measures for pollution control, conservation of forests and wildlife protection. Many of these judicial interventions have been triggered by the persistent incoherence in policy-making as well as the lack of capacity-building amongst the executive agencies. Devices such as Public Interest Litigation (PIL) have been prominently relied upon to tackle environmental problems, and this approach has its supporters as well as critic.

The Constitution role in protection

Directive Principle of The Indian Constitution

The Directive principles under the Indian constitution directed towards ideals of building a welfare state. A healthy environment is also one of the elements of a welfare state. **Article 47** provides 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. The improvement of public health also includes the protection and improvement of the environment without which public health cannot be assured. Article 48 deals with the organization of agriculture and animal husbandry . It directs the State to take steps to organize agriculture and animal husbandry on modern and scientific lines. In particular, it should take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle. **Article 48-A** of the constitution says that “the state shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country”.[\(Yavuz 2016\)](#)

Part III of The Indian Constitution

The Constitution of India under part III guarantees fundamental rights which are essential for the development of every individual and to which a person is inherently entitled by virtue of being human alone. Right to the environment is also a right without which development of individual and realisation of his or her full potential shall not be possible. Articles 21, 14 and 19 of this part have been used for environmental protection.

Article 21 of The Indian Constitution

According to **Article 21** of the constitution, “no person shall be deprived of his life or personal liberty except according to procedure established by law”. Article 21 has received a liberal interpretation from time to time after the decision of the Supreme Court in **Maneka Gandhi vs. Union of India, (AIR 1978 SC 597)**. Article 21 guarantees the fundamental right to life. Right to the environment, free of the danger of disease and infection is inherent in it. Right to the healthy environment is an important attribute of a right to live with human dignity.

The right to live in a healthy environment as part of Article 21 of the Constitution was first recognized in the case of Rural Litigation and **Entitlement Kendra vs. State, AIR 1988 SC 2187 (Popularly known as Dehradun Quarrying Case)**. It is the first case of this kind in India,

involving issues relating to the environment and ecological balance in which Supreme Court directed to stop the excavation (illegal mining) under the **Environment (Protection) Act, 1986**.

In M.C. Mehta vs. Union of India (1987), the Supreme Court treated the right to live in pollution free environment as a part of fundamental right to life under Article 21 of the Constitution.

Local Village's where Panchayat system is Followed

At local and village level also, Panchayats have been empowered under the constitution to take measures such as soil conservation, water management, forestry and protection of the environment and promotion of ecological aspect.

Supreme Court Judgement On Ganga Water Pollution

In the **Ganga Water Pollution case** , the owners of some tanneries near Kanpur were discharging their effluents from their factories in Ganga without setting up primary treatment plants. **The Supreme Court held that the financial capacity of the tanneries should be considered as irrelevant while requiring them to establish primary treatment plants.** The Court directed to stop the running of these tanneries and also not to let out trade effluents from the tanneries either directly or indirectly into the river Ganga without subjecting the trade effluents to a permanent process by setting up primary treatment plants as approved by the State Pollution Control Board. ([Wankhade 2012](#))

Acts Passed for Protection of Environment

The Water (Prevention and Control of Pollution) Act, 1974 is one of the major laws relevant to the environment as the first of its kind after the Stockholm Conference. It provides for 'the prevention and control of wholesomeness of water, and also for establishing and conferring appropriate powers upon Pollution Control Board, **established for the purpose of achieving the above-set purpose** .

The Air (Prevention and Control of Pollution) Act, 1981 was enacted as a follow-up of the Stockholm Conference and was enacted for taking appropriate steps for preservation of natural resources of the earth, which among other things include preserving the air quality and control of

air pollution. The Act contains a definition clause, which attempts to bring all aspects of air pollution, including noise, within its fold.

In 1986, following the catastrophe of Bhopal, the Parliament was roused to address every single environmental issue by enacting a special legislation viz, Environment (Protection) Act, 1986. Under this, the central government has the responsibility for deciding the standards for accident prevention and handling of hazardous waste, oversight of investigations and research on pollution issues, onsite inspections, the establishment of laboratories, and collection and dissemination of information. In this legislative effort, an attempt was also made to control the environmental pollution in a holistic manner instead of sectoral/piecemeal approach.

Environment protection is part of our cultural values and traditions. In Atharvaveda, it has been said that “Man’s paradise is on earth; this living world is the beloved place of all, It has the blessings of nature’s bounties, live in a lovely spirit”. Earth is our paradise and it is our duty to protect our paradise. The constitution of India embodies the framework of protection and preservation of nature without which life cannot be enjoyed. The knowledge of constitutional provisions regarding environment protection is need of the day to bring greater public participation, environmental awareness, environmental education and sensitize the people to preserve ecology and environment. ([Wankhade 2012; Imbert and Merlin 2005](#))

Role of local community

There is a long history of public involvement in environmental decision making. Typically, participation in the planning system through local consultation on planning applications and more general participation in development planning provided plenty of opportunities for the public to comment on development proposals and more strategic issues. Somewhat paradoxically, however, it has been argued that notwithstanding this long history of public involvement in the planning system, environmental regulation has been ‘closed to public influence.’ This is because, in stark contrast to the planning system, most pollution control regimes had rudimentary notification and consultation process and nature conservation decisions were almost entirely determined by experts without recourse to the general public. The reasons for this are largely concerned with the technical nature of decisions. Other factors include the close relationship between industry and the regulators, the lack of transparency in decision

making and the large degree of discretion to set environmental standards. This process of change has been relatively swift with the increased participation in pollution control regimes and planning through the introduction of formal environmental impact assessment.

Thus it is clear that the importance of community participation in matters of environmental policy is extremely great.

The Importance Of Community Participation.

The rationale behind the increasing role of public participation is captured aptly in the following words:

With the increased protection of environment...States have assumed the responsibility to meet dangers and risks, which may threaten a great number of citizens and even the general public. The open landscape, the water and the air, have come to be considered common property of all, and their rational management is not only in the interest of one single individual but in the interest of all. Therefore, states have increasingly begun to recognise that, in the law of environmental protection, the traditional structures of individual participation and judicial protection of the individual are inadequate, and that the public, interested citizens and organisations ought to have the opportunity to participate in the administrative decision making process...When it is the public in whose interest environmental protection measures are taken, and when it is the public who are expected to accept and comply with those measures, the public should have the chance to develop and articulate its opinion, and to air it during the environmental decision making process.[\(Zhang 2015\)](#)

Access to information is essential in a democracy so that citizens can exercise their rights in a meaningful manner. Increasing access to environmental information is essential as it allows for competing interests to be balanced, in the sense that the public interest suggests that access to information on the consequences of industrial activities, permits all relevant factors to be taken into account as part of the decision making process. In addition there is clear link between the provisions of environmental information and the achievement of the goal of sustainable development. First, the provision of environmental information can influence the behaviour and decisions of private individuals and companies. Making information available on wider scale can be the necessary catalyst required to change behaviours or increase effectiveness. Secondly,

information can help us to understand the consequences of our current actions in terms of the legacy that is being passed on to our future generations. Other benefits of improving the mechanism of environmental information include better quality of decisions regarding environmental policies and strengthening the mechanisms of enforcement of environmental law. Furthermore greater depth of information can make communities aware of the environmental risks facing them and their members.

In India itself, many environmental laws do not contain any provisions whatsoever regarding information to public and without any information the role of communities in matters of environmental decisions concerning them remains redundant. For example let us consider the example of provision of the Water Act which states that previous consent is necessary for discharge of sewage or industrial effluents. There is no provision for publication of a consent application or even notice for an application. Thus a community might not be even aware that the river in its neighbourhood might have industrial waste in its waters. The people are kept in the dark throughout the process although the damage done to them may of intense degree. The industry may not, necessarily, disclose everything relevant to the officers of the state board...the inspecting personnel may not always be in a position to act in accordance with the interest of the public and in an objective manner. A provision of public scrutiny would have rationalised the process bringing relevant factors to the consideration of the inspecting personnel and the board. Such built safeguards are wanting in India.[\(P. and Bose 1962\)](#)

The Benefits Of Community Participation.

Before one enumerates the various benefits of community participation it is essential for one to know the various modes of community participation. On a very general level public participation consists of attempts to influence law, policies, and individual decisions made by the government or regulatory bodies. This involves many different things but it includes being able to have access to, understand, evaluate, formulate and comment upon proposals, plans and programmes. Thus public participation can take the form of:

- Pluralistic participation where representative bodies such as NGOs or industry associations speak on behalf of individuals.

Stakeholder participation where proposals which have already been formulated are transmitted to interested parties to comment upon and refine.

- Deliberative participation which consists of 'agreeing the ground rules ', i.e. involving the public in determining what general policies and strategies should be adopted before moving to the stage of specific proposals.

In addition participation can have different degrees of legal force. For example, in environmental impact assessment, public participation is necessary pre requirement which is pre condition of the grant of planning permission. One of the central challenges of public participation is seeking to ensure that the quality of the participation is sufficient to actively engage the public and that proper opportunity is given to respond to any consultation exercise.

This said and then, Lee and Abbot identify a number of the potential benefits of promoting public participation.

- Improving the quality of decision.

The preamble to the Aarhus Convention emphasizes the role that public participation has to play in improving environmental decisions. It states that improved access and public participation in decision-making enhance the quality and implementation of decisions... ' This can be done through such things as the input of specific expertise held by members of the public through the elicitation of social and cultural values.

- Environmental problem solving.

One of the ways in which competing values can be resolved is through techniques of deliberation, that is all concerned parties both governmental and community representatives ought to sit together and take a bottom-up approach in which all sides of an issue are debated in an attempt to reach a consensus on an issue.[\(Secretariat 1988\)](#)

- Promoting environmental citizenship.

Environmental citizenship is loosely based upon the notion that individuals should take some responsibility for their own interaction with the environment. In promoting such citizenship, participation in environmental matters is crucial. Engaging the public to play an active role in environmental policy-making and raising awareness of environmental issues are central to promoting environmental citizenships.

- Improving procedural legitimacy.

Increased involvement in decisions, access to good quality environmental information and ex post review mechanisms through such things as judicial review increases the accountability of the decision maker and makes the process more legitimate in the eyes of the public.

Thus one can clearly make out how important the role of communities is, in making decisions regarding their environment and the impact of policies on their sustenance. In India too, there have been many instances where communities have spoken up and fought for their rights. For example the Chipko movement led by Sunderlal Bahuguna to preserve the indigenous trees of Uttar Pradesh. In this particular movement the local communities adopted the Gandhian principles of protest and literally tied themselves to the trees in order to prevent their lumbering. It was this action that resulted the government to take note of the environmental issues raised by the community and resulted in the government taking policy decisions keeping in mind the suggestions of the local community. Similarly the Narmada Bachao Andolan saw wide protests against the increase of the dam over the river Narmada by local communities which resulted in a massive legal battle. These instances where the communities have spoken for themselves and achieved results goes to show how important their roles really are.

Reference with the Crpc

According to Section 2(a) of the Indian Environment (Protection) Act 1986, the term “Environment” includes water, air and land and human beings, other living creatures, plants, micro-or([Trivedi 2012](#); [Fleck 2017](#))ganism and property. However, under Section 1(2) of the Environment Protection Act 1990 of the United Kingdom, the term “environment” consists of all

or any of the following medium, namely, air, water and land and the medium of air made structures above or below ground. According to the Encyclopaedia Britannica, the term "Environment" means the entire range of external influence acting on an organism, both the physical and biological and other organism, i.e., forces of nature surrounding of an individual. Besides, man-made environment is created by us i.e., industrial revolution, communication networks like telephones, internet etc., agricultural & plantation for the protection of environment, power generations, sustainable development is a tool of protect the pollution free environment.

The degradation in environmental quality has been evidenced by enormous pollution, loss of vegetal cover and biological diversity, excess accumulation of harmful chemicals in the atmosphere and in food chains, growing risks of environmental accidents and threats to life support system. The expression "the people of the whole world resolve to protect and enhance the environmental quality" is found in the decisions taken at the United Nations Conference on the Human Environment which took place at Stockholm in June 1972. The Government of India was participated in the Conference and strongly voiced the environmental concerns. While several measures have been undertaken for environmental protection, but the need for a general legislation has become increasingly evident. Although, there are existing laws dealing directly or indirectly with several environmental matters, it is necessary to have a general legislation for environmental protection. Existing laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are not adequate linkages in handling matters of industrial and environmental safety. Control of mechanism to the guard against slow insidious to develop of the hazardous substances, especially new chemicals are weak in an environment. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long term requirements of environmental safety and to give direction to and to coordinate a system of speedy and adequate response to emergency situations threatening the environment.

The deforestation, cutting of tree without permission from the competent authority, rapid growth of industrialization, there is no check & balance of hazard standards equipment in industrial units, expulsion of population, inadequate knowledge among the people about environment and pollution are the main causes of environmental issues and challenges. Besides, the government agencies/functionary is not activated to control these problems and prospects in such a manner as requires the problems of our nation. There is a need of an hour to motivate these agencies to do something in inspirit of the legislation with the strong "Political Will of the State". NGOs can perform to aware about issues and solutions amongst to the common people.

The rapid growth of industry and direct foreign investment is the result of our liberal economy policy on the monumental scale pose new challenges and new threats for a complex plural society. These challenges have often been noticed in the past, it is merely the scale, which might be different in future. If there has been indeed, a regrettable aspect to the Independent Nation's history, it has been the inability of the Executive wing to deal with these problems effectively and set a precedent, which may be followed. The trains that such rapid Industrial advancement place on a Nation's environs are unfathomable, the destruction that it has the capacity of causing, almost frightening and under these circumstances the means and measures which ordinary citizens have in dealing with them, seemingly hopeless.[\(Trivedi 2012\)](#)

But it is each society's own unique way of dealing with the challenges before it. Reformed Government has not yet been India's response. The sheer destruction of our ecology has been met with firmly by only one pillar of the vast State. It is indeed almost ironic that the task of saving India's natural resources.

The Herculean task undertaken by the Supreme Court has been made possible by the now settled principle of dilution of the old rule of locus standi. Invention has occurred by now in a plethora of cases, most of them discussed on innumerable occasions by Jurists and the Intelligentsia and PIL can be filed for the protection of environment.

No doubt, industrialization is the backbone of our economy and agrarian sector is not capable to fulfil the requirement of an employment opportunities but we cannot be compromised with

environment, development should be made in such a manner to use the natural resources in a minimize waste with maximum satisfaction of the wants of the people as the theory of "Social Engineering" propounded by Dean R. Pound. Therefore, sustainable development is the best solution of our problem as discussed above.

The pollution of water is a phenomenon that is characterized by the deterioration of the quality of water as a result of different human activities. It is estimated that man can survive 20 days without food, but starts struggling for life in the absence of water just after one day. Water is the need for the maintenance of life of plants and animal; for navigation and hydro-electric power. That is why most of our cities, towns, and villages sprang up near places where plentiful water is available in the form of lakes, rivers and sea. History reminds us that many civilizations perished or migrated to better locations due to scarcity of water. Water pollution is a global problem, affecting both the industrialized and the developing nations. The water pollution problem is in rich and poor nations, these can be sorted out with collective measures and efforts of the nations. Human activities related with water pollution can be attributed to mining, agriculture, stockbreeding, fisheries, forestry, urban development, construction works, industries, etc., in our country unsanitary water and malnutrition can account for most of the illness and death. Like air pollutants, water pollutants, come from numerous natural and anthropogenic sources. Likewise, water pollutants produced in one nation may flow into others, creating complex international control problems that may take decades to solve. Therefore, management and conservation of water resources have become important issues for the protection of environment.

Environmental protection has now become a matter of grave concern for human existence. It is the duty of State and each & every people of the world to maintain the ecological system of the environment and pollution free society of the world. Industrialization, over exploitation of resources, the scientific and technological progress of man have invested the man with immense power over nature and these have been the principal causes for the impairment of the quality of the environment.

Environmental degradation is a social problem and considering its impact on the society has risen to deal with the situation as it demands in the present day-to-day. It is not merely confined to the Apex Court, but also the High Courts in India including Orissa High Court which have shown dynamism in evolving the right to environment in India. While dealing with an environmental issue on Bhitarkanika Sanctuary, Hon'ble A. Pasayat and P.C. Naik, JJ felt in the case of Centre for Environmental Law V. State of Orissa that there is constitutional imperative on the State Government and the local bodies like Municipalities not only to ensure and safeguard proper environment but also an imperative duty to take adequate measure to promote, protect and improve the environment.

(1) Constitutional Protection of the Environment

The Indian Constitution is amongst the few in the world that contains specific provisions on environmental protection. The Directive Principles of State Policy and the Fundamental Duties chapters explicitly enunciate the national commitment to protect and improve the environment. Judicial interpretation has strengthened this constitutional mandate. Recently, the courts have recognised the right to a wholesome environment as being implicit in the fundamental right to life.

Environmental protection and improvement were explicitly incorporated into the Constitution by the Constitution (Forty – Second Amendment) Act of 1976. The Constitution (Forty – Second Amendment) Act, 1976 introduced Article 48-A in Part IV which provides that “the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country”, the provision though not enforceable in a court, directs the State to enact legislation and frame policies towards attaining these goals.

The Constitution (Forty-Second Amendment) Act, 1976 also introduced Article 51A in Part IV A of the Constitution Article 51 A (g) provides 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”. (Goodman 2011) Thus the State now is under a moral duty to take measures to prevent ecological imbalances resulting from modern industrialization.

The Constitution has also cast a duty on the citizen to take steps for maintaining ecological balance. Although the language of Article 48 A and Article 51 A (g) differs to each other, the differences appear to relate to form rather than to substance. Together, the provisions highlight the national consensus on the importance of environmental protection and improvement. The incorporation of protection of environment as an obligation of the state and as a mandate to the citizens of India as part of the fundamental duties is notable indication to the importance of the protection of environment.

“Whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Article 48A of the Constitution and Article 51A (g) of the Constitution. When the Court is called upon to give effect to the Directive Principle and the Fundamental Duty, the Court is not to shrug its shoulders and say that priorities are a matter of policy and so it is a matter for the policy - making authority. The least that the Court may do is to examine whether appropriate considerations are borne in mind and irrelevancies excluded. In appropriate cases, the court may go further, but how much further will depend on the circumstances of the case. The Court may always give necessary directions.

(2) Scope of the Environment (Protection) Act, 1986

In the wake of the Bhopal tragedy, the Government of India enacted the Environment (Protection) Act of 1986, under Article 253 of the Constitution. The purpose of the Act is to implement the decisions of the United Nations Conference on the Human Environment of 1972, in so far as they relate to the protection and improvement of the human environment and the prevention of hazards to human beings, other living creatures, plants and property. The Act is an “umbrella” legislation designed to provide a framework for Central Government co-ordination of the activities of various central and state authorities established under previous laws, such as the Water Act and Air Act.

This Act is the first Act dealing with the Human environment as a composite whole and it is a comprehensive legislation on this point and also dealing with air, water, and noise pollution as also regulating the treatment of hazardous materials. Besides, Act is contained the 26 Sections

and divided into four chapters. The legislature has made the first time attempts to lay down the said law on this point and goes beyond the scope of the water and Air Pollution Acts passed in 1974 and 1981 respectively. But Act also suffers from shortcomings. The drawbacks of the Act relate to its narrow area of operation weak citizens suit provision, tax provisions relating to fixing of liability of corporate officials and lack of provisions providing for an individual's right to sue a defaulter for damages.

The potential scope of the Act is broad, with 'environment' defined to include water, air, and land and the inter-relationships which exist among water, air and land, and human beings and other living creatures, plants, microorganisms and property. "Environmental pollution" is the presence of any environmental pollutant, defined as any solid, liquid or gaseous substance present in such concentration as may be, or may tend to be injurious to the environment. Hazardous substances' include any substance or preparation which may cause harm to human beings, other living creatures, plants, microorganisms, property or the environment.

The Act provides for severe penalties. Any person who fails to comply with or contravenes any of the provisions of the Act. or the rules, orders, or directions issued under the Act shall be punished, for each failure or contravention, with a prison term of up to five years or a fine of up to Rs. 1 lakh, or both. The Act imposes an additional fine of up to Rs. 5,000 for every day of continuing violation. If a failure or contravention occurs for more than one year after the date of conviction, on offender may be punished with a prison term which may extend to seven years.

The Parliament has enacted various legislations for the protection of environment, pollution and maintains the ecological system of our nature, such as even in pre-independent era environment pollution was regulated by general laws viz: I.P.C. 1860, Cr.P.C. 1898 and Police Act 1861 having relevant provisions dealing with control of water, air, noise pollution and nuisances. Whereas, water pollution was controlled mainly by the North canal and Drainage Act 1873, and the Obstruction of Fair Way Act 1881, Air Pollution Control Provisions were contained in the Oriental Gas Company Act 1957, Explosives Act 1884, Indian Boilers Act 1923, The Petroleum Act 1934, Poison Act 1919, The Environment (Protection) Act 1986, Air (Prevention and Control of Pollution) Act 1981, The Water Cess Act 1977, The water (Prevention and Control of

Pollution) Act 1974, The Bhopal Gas Leak Disaster (Processing of Claims) Acts 1985, The Public Liability Insurance Act 1991, The Wild Life (Protection) Act 1972, The Forest (Conservation) Act 1980, The Indian Forest Act 1927 The National Green Tribunal Act 2010 but the implementation of these laws couldn't achieved the required result, it may be a failure of our function & functionary. But it can get the require result with the aid of "Strong Political Will of the State" and NGOs can play the vital role for awareness of environment and pollution free atmosphere among the common peoples.

(3) The Environment Protection: Cr. P. C & I. P. C.

The question whether the SDM was justified in passing order for closure of factory on the ground of causing pollution. Andhra Pradesh High Court in the case of Nagarjuna Paper Mills Ltd. V. S.D.M & R.D. Officer, has held that the Water Act 1974 has not taken away the power of Sub-Divisional Magistrate under Section 133 of Cr. P.C to close a factory causing pollution when appreciation certificate is not produce. The remedy under Section 133 of Cr. P.C is a quick and injunctive relief to the aggrieved party but the case may come within the purview of public nuisance under Section 133 of Cr. P.C and not for private nuisance which can be adjudicated before the Civil Court.

CONCLUSIONS AND RECOMMENDATIONS

Thus, after the analysis of above cases, we find that, the Supreme Court is, at the present time, stretching the different legal provisions for environmental protection. In this way, the judiciary tries to fill in the gaps where there is laciness of the legislation. These new innovations and developments in India by the judicial activism open the numerous approaches to help the country. In India, the courts are extremely cognizant and cautious about the special nature of environmental rights, considering that the loss of natural resources can't be renewed.

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