

## An Introduction to Environmental Laws in India

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### Abstract

In India there are many environmental legislations available for the purpose of protecting all the resources of the environmental components. The environmental resources, such as, water, atmosphere, wildlife, forest, biodiversity, coastal line all and be protected under the environmental legislations available in India. Indian judiciary played a vital role whenever there was problem of proper implementation of the environmental legislation. The present article will be making a study of various environmental laws applicable in India for environmental protection and preservation.

**Keywords:** water pollution, atmospheric pollution, forest degradation, while protection, biodiversity conservation

**Abbreviations:** the Water (Prevention and Control of Pollution) Act, 1974 (water law), the Air (Prevention and Control of Pollution) Act, 1981 (atmospheric law), the Environment (Protection) Act, 1986 (environment protection law), the Wildlife (Protection) Act, 1972 (wildlife law), the Forest (Conservation) Act, 1980 (forest law), the Biological Diversity Act, 2002 (biodiversity law)

### Introduction

After the independence of India in 1947 the Constitution of India came into operation from 1950. According to Article 47 of the Indian Constitution the health of the people to the protected by the state. Because of international trade on trophies of wild animals, in India the wildlife was a great risk. Particularly it has been seen in case of Royal Bengal Tiger, rhinoceros and Indian elephants. To protect these wild animals in India enacted by the wildlife law in the year 1972. India encouraged industrialisation in every part of the states and ensured that the industries are not facing any problem in their operation. However, it was observed that the industries placed in the vicinity of the River or other water bodies started polluting the River water and other water bodies with the trade effluents. To control the water pollution India enacted water law in the year 1974. Forest and wildlife had been the state subject under the Indian Constitution of the 1976. At that time it was seen that most of the forest lands were converted to industrial land by the state government. Prior to 1976 there was no duty imposed either on state or an individual in India to protect and preserve the forest, wildlife and the environment. With the help of 42nd amendment to Indian Constitution in the 1976 two important Articles were inserted, for example, Article 48A and Article 51A(g). The article 48A had imposed duties on the state to preserve and protect the environment. Similarly, article 51A(g) had imposed duties on the citizens of India to protect and preserve the environment. To prevent the conversion of forest land into industrial land by the state government, government of India enacted forest law in the year 1980. Industrial operation in India also put difficulty in the atmospheric quality. To protect the quality of the atmosphere and pollution to the environment the atmospheric law was enacted in the year 1981. India was not having an overall legislation to protect all the resources of environment and accordingly in the year 1986 the government of India enacted environment protection law. The environment protection law is a unique legislation, which is otherwise known as an

umbrella legislation. Under this law many regulations and rules, for example, coastal regulation zone, municipal solid waste rules, chemical regulation rules, biomedical waste rules, batteries and legal rules, ozone depleting rules, et cetera have been enacted. India was not having any legislation to protect biodiversity and accordingly as per the international mandate on convention on biological diversity of 1992, India enacted biodiversity law.

### **Wildlife (Protection) Act, 1972**

It is well known to us that India is reaching biodiversity and in possession of thousands of wild species is in deep dense forest, national parks and sanctuaries. There are many authorities will be working under the wildlife law to protect various wild species. There is a provision for appointment of director will look after the wildlife. There is a provision for appointment of wild life warden. The unique part of this wildlife law is that the national board for wildlife is constituted for the purpose of overall protection of the wild animals in India. Standing committee for the national board will be constituted to assist the national board. Under the wildlife law there is a provision for Constitution of state board for wildlife. The wildlife law also protects certain species of plants. There is a provision for declaration of protected areas under the wildlife law. The declaration of sanctuaries is possible under the wildlife law and at the time of the determination of the rights of the property it is the collector was authorised to look after the matter. There is a provision for declaration of national parks and this will be done exclusively for the conservational purpose. Sanctuaries or national parks may also be declared by the central government. There is a provision for establishment of centres Zoo authority and the commission of Zoo all over India. National Tiger conservation authority is also established under this legislation. Tiger conservation plan to be prepared by them. There is also a provision for establishment of Tiger conservation foundation. The wildlife law also deals with title and other endangered species crime control bureau. The wildlife law has explained the powers and functions of the wildlife crime control bureau. There is a complete ban on the trade or commerce in wild animals, animal articles and trophy. Any trader is found to do illegal trade on animal articles, the license will be suspended. The wildlife law also gives the example of certain species, where there is complete ban on the sale of animal articles and trophy. The wildlife law also prescribes prevention and detection of offences. The power of the inspector is prescribed under the wildlife law. There is discretion of the punishment for wrongful seizure by the government officials. Along with wildlife law other laws also will be applicable which are criminal in nature to prevent the sale of wild animal. Wildlife law further provides the provision for forfeiture of property derived from illegal hunting and trade. There is also a provision that any forest officials would be awarded by the state government for commendable work.

### **Water (Prevention and Control of Pollution) Act, 1974**

The water law is enacted by the Parliament of India though the subject is under the state list. There was a request from the state assemblies from more than 10 states to the central government to enact the water law or their own states and accordingly the water law was enacted in the year 1974. Under the water law the expression 'pollution' has been described and stated that the presence of pollutant may cause pollution to the water in such a concentration that because health issues to public or degrading the environmental quality. For the purpose of controlling the water pollution the water law establishes central and state pollution control board. The water law also mentions the terms and conditions of service of the members of the board. There are disqualification for the members to be the members of the board. For a particular purpose temporary Association of a person is possible with the

board. Other committees can be constituted by the board and by the state government and board can delegate its power to chairman of the board. There is a provision under the water law for the Constitution of joint board and the water law also prescribes composition of the joint board and their powers and functions. The water law separate conventions the functions of the central board and also the functions of the state pollution control board. The board will have power to give directions to the polluter for checking the pollution or for closer of the industry. The water law deals with prevention and control of water pollution and in which it is mentioned that state government can restrict the application of this water law to certain area. The inspector appointed under the water law will have power to take samples of trade effluents and will have to follow the procedure as laid down under the water law. There is a prohibition on use of streams or wells for disposal of polluting matter. The state pollution control board can withdraw its no objection certificate from the industry, the industry fails to comply with directions issued by the state board. In the fund the central and state government both can contribute for the purpose of pollution free water. The penalty has been prescribed under the water law for the contravention of the provisions of the law. The offenses by the companies and the offenses by the government departments both have been recognised under the water law. There will be establishment of the central water laboratory and state water laboratory. There is a power to central government to supersede the central board and joint board similarly, there is a power of the state government to supersede the state board.

### **Forest (Conservation) Act , 1980**

The forest law came into effect from 25th day of October 1980. The law has been enacted to control the reduction of the forest coverage in India. The forest law gives restriction on the use of forest land for nonforest purposes. It suggests that the state government will have to take prior approval from the central government for the purpose of declaring a reserve forest shall cease to be the reserved. Similarly, if the state government wants of forest land to be utilised for nonforest purposes prior approval from the central government is required. The state government can provide lease to any forest land for nonforest purposes to any authority or agency or to the Corporation only with the approval from the central government. Cutting down of trees from any forest land, which are naturally grown, prior approval from the central government will be required. There is a provision for Constitution of advisory committee under the forest law. There is a provision for penalty for contravention of the provisions of this forest law. What should be done with the offenses being committed by the authorities and government departments also prescribed under the water law. If the provisions are not made under this forest law then the central government has the power to make rules to fulfil those obligations.

### **Air (Prevention and Control of Pollution) Act, 1981**

The atmospheric law was enacted for the purpose of controlling the suspended pollutants in the atmosphere. The atmospheric law was enacted for the purpose of fulfilling the India's international obligation as promised in Stockholm declaration 1972. The atmospheric law defines the air pollution and states that the presence of atmospheric pollutant in such a concentration that will affect the human life or the environment. The pollution may be from vehicular emission, industrial emission and domestic emission. For the purpose of controlling the atmospheric pollution between establishment of central pollution control board and state pollution control board. The atmospheric law prescribes the qualification disqualification for the members of the board. The Constitution of the committee may be done by the state government or by the pollution control board. There is a possibility of temporary Association

of any expert member with the board. There is a separate function for the central pollution control board and state pollution control board mentioned under the atmospheric law. The powers of the central pollution control board and state pollution control board has also been mentioned under the atmospheric law. The courts can issue directions for the shutdown of the industry or can issue directions for the discontinuation of the water supply and electricity supply. The atmospheric law categorically mentions about the prevention and control of the pollution. The state government has the power to declare air pollution control areas. The board has power to prescribe standard emission for automobiles. The pollution control board has the power to make an application to the court of law to restrain the pollution activity by the industries. The inspector appointed for this purpose will have power to take entry and make inspection in the industry premises. There will be establishment of state air laboratory. The industry and other agencies will be bound to furnish the information before the state board once they asked for. For fund management of the state and central board it is the central board can contribute to the fund of the central pollution control board. The atmospheric law also prescribes for penalties and procedures. Penalty for the contravention of certain provisions of the atmospheric law is mentioned comprehensively. The atmospheric law also take the cognizance of the offences by the companies and offences committed by the government departments. Regarding the implementation of the various provisions of atmospheric law there is a big question because Bhopal gas tragedy of 1984.

### **Environment (Protection) Act, 1986**

The environment protection law has been enacted fulfilling the international obligation of India as promised in Stockholm declaration 1972. The term environment has been its lane under this legislation and suggest that the expression environment includes water, air and land and the interrelationship which exists among and between water, air and land, and human beings, other living creatures, plants, microorganisms and property. Under this forest conservation law central government has been given enough power to mitigate the environmental crisis. The central government plan and execute a nationwide program for the prevention and control of environmental pollution. The central government can prescribe the standard for quality of environment in its various aspects. The central government can lay down the standards for emission or discharge of environmental pollutants from various sources whatsoever. Moreover, the central government can constitute various committees for the purpose of the implementation of this environmental protection law. Under this law central government has the power to issue directions. The central government authority will have power to take entry and make inspection in the industrial premises. Environmental laboratories can established. The environment protection law is a that the penalties and procedures, for example, any industry or agency fails to comply with the direction deals with the for imprisonment maximum up to 5 years or with a fine maximum upto Rs. One lakh. Under the environment protection law rules and regulations can be framed for specific application of such rules and regulations to specific components of the environment. For example, to regulate the ozone depletion, ozone depletion regulation 2000 is available. Similarly, to deal with the biomedical wastes, there is biomedical waste rules 2016 is available. At the same time to regulate the electronic waste, there is e-waste regulation 2016 has been enacted.

### **Biological Diversity Act, 2002**

The biodiversity law has been enacted by fulfilling the India's international obligation from the Rio de Janerio conference of 1992. There was convention on biological diversity, in

which India was a party not only became signatory and ratified the convention on biological diversity document. The biodiversity law makes provision on regulation of access to biological diversity and clearly makes the statement that certain persons not to undertake biodiversity related activities without the approval of national biodiversity authority. Similarly, it also makes a provision that results of research not to be transferred to certain persons without the approval of national biodiversity authority. It also makes a provision that application for intellectual property rights not to be made without approval of national biodiversity authority. There is establishment of national biodiversity authority. The provision makes the qualification and disqualification for the members of such biodiversity authority. Functions and powers of the national biodiversity authority is mentioned under section 18 of the biodiversity law. How the approval should be granted by the national biodiversity authority is also mentioned under section 19 of the biodiversity law. How to or transfer of biological resources or knowledge is mentioned under section 20 of the biodiversity law. Most important provision is given under section 21 of the biodiversity law that deals with determination of equitable benefit sharing by national biodiversity authority. In order to implement the provisions at the state level there is establishment of state biodiversity board. The national biodiversity board can be given the loan by central government. Similarly, the state biodiversity board the money and the grants can be given by the state government. There is a provision mentioned under section 41 of the biodiversity law regarding the establishment of biodiversity management committee. There will be establishment of local biodiversity fund. The national biodiversity authority shall be bound by the directions issued by the central government from time to time. The biodiversity law also makes penalty provision for contravention for directions or orders of central government, state government, national biodiversity authority and state biodiversity board.

## Conclusion

It is clear from the above discussion that in India many environmental laws are available for the purpose of protecting all the components of the environmental resources. Atmospheric pollution was not covered prior to 1981. Similarly, the water pollution was not covered prior to 1974 in India. The loss to biodiversity was not at all issue in India prior to 2002. The conversion of forest land for nonforest purposes was not controlled prior to 1980 in India. For the overall protection of the environmental resources a comprehensive environment protection law came into existence in 1986. Under this law many regulations and rules were formed particularly to control the environmental degradation of particular environmental resources. Overall, in India there is no shortage of environmental legislation and with proper implementation environmental resources will be protected and conserved.

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