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Address for correspondence:

V. V. Jawale
N.B.T. Law College, Nashik
Email:
mybhagyashree1@gmail.com

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Environmental Jurisprudence in India: Judicial Activism and Practical Impacts

V. V. Jawale¹, Dr. Bhagyashree Kailasrao Athawale²

¹N.B.T. Law College, Nashik

²Principal, Samarth Shikshanshastra Mahavidyalaya, Nashik

Abstract

The Judicial activism to protect the right to life has caused the evolution of the environmental protection jurisprudence in India. Due to the Industrial Revolution, industrial growth is mushrooming throughout the country. It causing adverse impact on the environment and ultimately affecting the right to healthy and clean environment. Therefore, judicial role is transformed as the environment protection activist in this regard. It may lead to give directions to the executive and legislature for appropriate actions to maintain healthy atmosphere. It gives rise to important decisions in the area of the environment protection. It also reflected in the evolution of innovative doctrines and philosophy like the polluter pays principle, the precautionary principle, and the public trust doctrine etc. These doctrines and philosophies are playing important role in the protection of environment. The instrument of Public Interest Litigation (PIL) is very powerful tool in the hands of the society to enforce the right to clean environment so as to enjoy the right to life in healthy manner. It has also made the hazardous industries accountable for the environment protection as well as to be accountable for the environment degradation. The invention of PILs and doctrines by the judiciary are responsible to regulate the environment governance effectively. This paper tries to study the evolution of environmental jurisprudence in India, exploring the judicial philosophy, innovative doctrines, and right to justice. This paper aims to study India's judicial approach to environmental protection on the basis of secondary sources of research methodology. Its object is to know the mechanism of protection of the right to clean environment by judicial philosophy and different doctrines. The research is promoted to trace the problem of environment pollution and its jurisprudential aspect for the protection of the environment. Thus, it is an attempt to find out environmental jurisprudence in India with the help of judicial activism and practical impacts. It is essential to protect the environment so as to assure the right to life as the fundamental right contained in the part third of the Indian Constitution which is interpreted very widely. The right to clean environment and clean air are very basis for the sound enjoyment of the right to life.

Keywords: Small Scale Enterprises, Performance Management, Human Resource Management, Employee Productivity, Organizational Performance, Performance Appraisal, Performance Evaluation, Entrepreneurship Development, Challenges in SMEs, Business Growth, Management Strategies

Introduction

The human being is a social animal. Human needs pure air for healthy life. The right to life is assured by the Indian Constitution. Therefore, the clean environment is essential to enjoy the right to life. The industrial revolution has caused expansion of hazardous industries which are causing environmental pollution. Since, judiciary is the guardian of the constitution, it is the judicial activism responsible as parent patria in protection of the right to clean environment. In spite of different challenges, the judiciary is playing its role effectively so as to guard the right to life in the healthy environment. Moreover, judiciary also directing effectively to the executives and legislature to for accountable environment governance.

The landmark judicial pronouncements like Cases like *M.C. Mehta v Union of India (Oleum Gas Leak Case)*, *Vellore Citizens Welfare Forum v Union of India*, and the *Taj Trapezium Case* have shown the judicial activism to evolve the philosophy of strict liability of hazardous industries. Moreover, judiciary also giving directions to executives and taking compliance from them as per the environment protection mandates. It is also observed that Indian judiciary has evolved the environment protection jurisprudence in the lines with international standards like the *Stockholm Declaration*, the *Rio Declaration*, and the *Paris Agreement*.

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No doubt, there are different challenges and legislative lacunas, the judiciary has also tactfully balanced the environment protection with the industrial development. It is called the sustainable development.

This paper aims to study India's judicial approach to environmental protection on the basis of secondary sources of research methodology. Its object is to know the mechanism of protection of the right to clean environment by judicial philosophy and different doctrines. The research is promoted to trace the problem of environment pollution and its jurisprudential aspect for the protection of the environment

Methodology

The research paper is written on the basis of secondary resources available like Case laws, Constitution, Reports, Journals, etc. Therefore it is a doctrinal research. This research paper has done appropriate analysis of the relevant constitutional provisions, environmental laws, and presidents in the concerned area. It is included with the important judicial decisions on the relevant aspect of the paper. Moreover, commentaries and environment reports are studied to draw the conclusions. This research paper is has focused upon the judicial activism in the area of environment protection. Therefore, important case laws are studied and their end notes are given at end of the paper for the reference.

Analysis

The judicial activism in India shows that there is interpretation of the right to life in wider sense so as to protect the clean environment and make hazardous industries responsible for the accountability on their own part so as to obey environmental protection standards. It was in the same lines of observations made in the famous case of *M.C. Mehta v Union of India* and *Subhash Kumar v State of Bihar*. Public Interest Litigation (PIL), is an effective tool in the hand of the society for access to justice. It has brought the justice within the preview of marginalized section of the society. The famous case like *Oleum Gas Leak Case* has remarked that the PIL is playing the effective role in implementation of the strict liability and protection of clean environment for assurance of safety public health.

The judicial supervision on the executives for the obedience of the judicial and legislative standards is

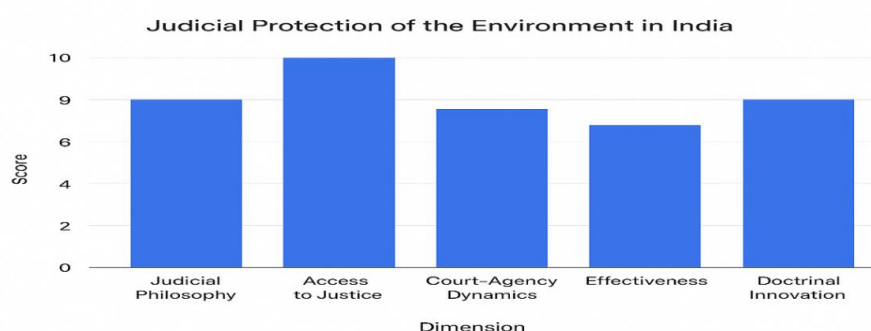
the important character of the Indian Environmental Jurisprudence. Therefore, in the case of *In Vellore Citizens Welfare Forum v Union of India* and the *Taj Trapezium Case*, judiciary assured the monitoring of the industrial pollution so as to implement legislative laws in this regard. It is called as judicial supervisory environment governance.

Moreover, the adaptation of the international standards like the *Stockholm Declaration*, the *Rio Declaration* and the concept of sustainable development, shows that Indian environmental jurisprudence is in the lines of the world standards. The application of different doctrines like the precautionary principle, polluter pays, and public trust doctrine shows that Judiciary is trying to apply global as well as practical tactics to assure the clean and healthy environment so as to protect the right to life.

Results

1. **Innovative Judicial Philosophy:** it is found that Indian judiciary is playing activist role in the protection of the environment. It is interpreting the right to life widely so as to include the right to clean environment within the preview of the right to life as wee as the doctrine of accountability is made applicable to the hazardous industries.
2. **Access to Justice to all:** The instrument of PIL gives an opportunity to people to get justice in environmental matters without locus standi. It is helping to prevent environmental degradation.
3. **Judicial supervision on executives / Court-Agency Dynamics:** It is found that the judiciary is playing a supervisory role in guiding the executives for obedience of environment protection standards. It is called as judicial involvement in implementation.
4. **Effectiveness:** It is also found that the judiciary in India is very activist. It is giving wide interpretation to the right to life.
5. **Doctrinal Innovation:** Judiciary has evolved certain new doctrines and principles for the protection of environment. It includes the strict liability principle, precautionary principle, public trust doctrine etc. thus, the Indian judiciary has not only created strong legal principles but has also balancing legal theory with environmental realities.

Explanation of the Graph / Findings



Graph Title: Judicial Environmental Protection in India

The above bar graph titled “Judicial Protection of the Environment in India” shows five dimensions of the judiciary’s role in environmental protection. Each dimension is scored on a scale of 0–10: Its result on the basis of the secondary sources is as below.

- **Judicial Philosophy:** Score of 9
- **Access to Justice:** Score of 10
- **Court–Agency Dynamics:** Score of 8.5
- **Effectiveness:** Score of 7
- **Doctrinal Innovation:** Score of 9

Thus, the graph makes it clear that judiciary plays activists role. It has evolved strong and innovative doctrines for environmental protection. It assured the access to justice to vulnerable section of the society

Discussion

The above analysis of judicial pronouncements and judicial activism shows a judiciary that judiciary is supervising executives in the implementation of the right to healthy environment. It may be criticized but it assures positive obedience of executives for prevention of environmental degradation.

The evolution of innovative principles and doctrines like precautionary principle, the polluter pays principle, and the public trust doctrine are very useful to judiciary to make accountable hazardous industries. It may be illustrated by the case like *Indian Council for Enviro-Legal Action v Union of India*, where the judiciary has enforced the polluter pays philosophy for the hazardous industries. It caused deterrence and compelled the hazardous industries to give compensation for causing the environmental pollution.

The judicial recognition of the international standards shows that India is obedient to world standards of environment protection. Therefore, the *Stockholm* and *Rio Declarations*, are not only respected but followed strictly by the Indian Judiciary so as to assure sustainable development.

On the basis of the secondary resources of the paper it is found that the implementation mechanism in the environmental protection is lacking far behind the expected standards in this regard. It affects adversely on the efficient judicial pronouncement of the judiciary.

Criticism

Judicial activism in environment protection is a noteworthy but it has certain limitations. It is very clearly seen in the landmark case of *M.C. Mehta v Union of India (Oleum Gas Leak Case)*, where the judiciary has invented the strict liability philosophy but its implementation through executives was critical and blameworthy. Moreover, in the landmark case of *Vellore Citizens Welfare Forum v Union of India*, the judiciary has successfully applied the polluter pays principle for compulsory paying compensation for causing pollution but its execution was delayed by the executives. In the case of *Taj Trapezium Case* there was judicial supervision over the execution for effective implementation of the judicial decision. But

it was criticised on the ground of judicial interference encroachment over the executive matters or jurisdiction. Furthermore, in the case *Indian Council for Enviro-Legal Action v Union of India* it is found that more dependence on the Judiciary for the implementation of environment protection decisions may indicate that there are certain loopholes in the execution wing of the government. Thus, in spite of effective judicial pronouncements the implementation is paralysed due to the inefficiency of the bureaucracy.

Conclusion

The judicial activism in India shows that there is innovative evolution of new principles for the protection of the environment. There is more efficient judiciary than the executives. The liberal use of PILs have guaranteed the access to justice to the vulnerable section of the society. It also assured accountability and responsibility for the prevention of the environmental pollution. There is shown obedience to the world standards of the *Stockholm* and *Rio Declarations*. Moreover, the secondary resources of the paper shows that the implementation mechanism in the environmental protection is lacking far behind the expected standards in this regard. Thus, it affects adversely on the efficient judicial pronouncement of the activist judiciary.

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Conflicts of interest

The authors declare that there are no conflicts of interest regarding the publication of this paper.

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