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CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

Man is the only species who has acquired significant power to alter the nature of this world, which he has done to a disturbing magnitude. Greed and Short sightedness have proved to be mortal enemies of conservation. The exponential growth and misdistribution of human populations, resource depletion, environmental pollution and many more impending environmental crisis are emerging as public issues of world wide concern. Increasingly serious environmental degradation events during the last century have given a strong impetus to the need for taking effective steps of environment protection. Now that the profound impact of man's activities on the natural environment has been recognized, it has become imperative to create and maintain conditions under which man and nature can exist in productive harmony.¹

2.1. POSITION PRIOR TO 42ND (AMENDMENT) ACT 1976.

When India became free from the shackles of British Empire and constitution of India was framed by the drafting committee which came into operation on 26th January 1950 as a matter of fact and reality, nothing has been much said about the protection and improvement of ecological periphery of Indian biological and physical
environment. It is sorry to say that the founding fathers of Indian constitution has not devoted a single chapter of the constitution on such an important issue of Protecting and improving the environment and sustainable development to ensure better quality of life.

So that, it is a matter of concerned, whenever we have a glimpse of Indian constitution we find sorry state of affair regarding environment. But we have to see the scheme of Part III of the Indian constitution, which is related with fundamental Rights under which it has been directed in Article 21 that no person shall be deprived of life or personal liberty except according to the procedure established by Law.

(A) ARTICLE 21. "RIGHT TO LIFE AND PERSONAL LIBERTY"

The right to life given under Article 21 of the constitution of India does not merely mean the continuance of a person’s animal existence. It means the fullest opportunity to develop ones personality and potentiality to the highest level possible in the existing stage of our civilization. Inevitably it means the right to live decently as a member of a civilized society and to ensure all freedom and advantages that would needed to make life agreeable. The right
implies a reasonable standard of comfort and decency. \(^2\)

Because of such a wide parameters and ambit of Article 21 of the Indian constitution the ‘Right to Life’ under said article means a life of dignity to be lived in a proper environment free from the dangers of disease and infections. Our Apex court has time and again pronounced judgments which not only gave the Article 21 a wider interpretation but convert this Article into a life saving medicine. The Supreme Court of India is the case of *M.C. Mehta V. Union of India*\(^3\), has favorably entertained a petition under article 21 for appropriate relief against the leakage of oleum gas from a chemical plant resulting in the loss of lives and injury to health.

Maintenance of health, preservation of the sanitation and environment have been held to fall within the purview of Article 21 as it adversely affects the life of the citizens and it amounts to slow poisoning and reducing the life of the citizen because of the hazard created, if not checked.\(^4\)

The right to life includes the right of enjoyment of pollution free air and water. If anything endangers or impairs that quality of life in derogation of laws a citizen has right to have recourse under Article 32 for removing the pollution of water or air which may be detrimental to
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the quality of life.\(^5\)

The importance of Art 32 can be seen after going through the statement of Dr. Ambedkar -

"If I was asked to name any particular Article in this constitution as the most important Article without which this constitution would be a nullity. I could not refer to any other Article except this one....., it is the very soul of the constitution and the very heart of it."

It is rightly said that a declaration of fundamental rights is meaningless unless there is an effective machinery for the enforcement of the rights. It is the remedy, which makes the right real and effective. Where there is no remedy there is no right at all. It was therefore, in the fitness of the Hunk that our constitution makers having incorporated a long list of fundamental rights, have also provided for an effective remedy for the enforcement of fundamental rights under Article 32 of the constitution. Article 32 is itself a fundamental right. Article 226 also empowers all the High Courts to issue writs for the enforcement of fundamental rights.\(^6\)

In *Murli S. Deora case*, the *Supreme Court* held that smoking in any form in public places is held to be illegal, unconstitutional and violative of Article 21 which includes maintenance of health and
environment.

The Supreme Court of India in *Virender Gaur Vs. State of Haryana*\(^8\) had held that hygienic environment was an integral facet of right to healthy life and it would be impossible to live with human dignity, without a humane and healthy environment. Right to life, thus includes the right to good, and health. The continuous decline in the quality of the environment, showed a failure on the part of the authorities to perform their obligations under the constitutional scheme.

The Apex court said, a constitutional imperative on the state is not only to ensure and safeguard proper environment, but also an imperative duty to take adequate measures to promote and improve both the man-made and the natural environment.\(^9\) However mere change in environment does not per se violate right under Article 21, Specially when ameliorative steps are taken not only to preserve but to improve ecology and environment. Holding that care for environment was an on going process. In another case of *Narmada Bachao Andolan V. Union of India*,\(^10\) the Supreme Court of India issued directions in respect to the continuance of the construction of dam on Narmada river (Sardar Sarovar Project) for taking relief and rehabilitation
measures for the displaced persons because of the construction of the dam.

Not only the fundamental rights but also the directive principles of state policy are equally silent on the issue of environment protection and its improvement before the 42nd (Amendment) Act 1976.

The directive principles of state policy contained in part IV of the constitution set out the aims and objectives to be taken up by the states in the governance of the country. The novel feature of the constitution is borrowed from the constitution of Ireland, which had copied it from the Spanish constitution. 11

At one time it was thought that the state was mainly concerned with the maintenance of law and order and the protection of life, liberty and property of the subject. Such a restrictive role of the state is no longer a valid concept. Today we are living in an era of a welfare State, which has to promote the prosperity and well being of the people. The directive principles lay down certain economic and social policies to be pursued by the various Governments in India, they impose certain obligation on the state to take positive action in certain directions in order to promote the welfare of the people and achieve economic democracy. The directive principles differ from fundamental
rights in this respect, while Fundamental rights are Justiceable, directive Principles are non Justifiable. Though these directives are not enforceable by the courts yet these principles have been declared to be fundamental in the governance of the country (Article 37). It is the duty of the state to apply these principles in making laws. If any government ignores it then it will certainly have to answer for them before the electorate at the time of election. There is only one Article of the Directive principles which is indirectly related to the environment and health of the public at large before the 42nd (Amendment) Act. 1976.

(B) ARTICLE 47. "Duty of the State to raise the level of nutrition and Standard of living and to improve public health."

This article directs the state in regard to 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. Further the state is required to take steps to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and drugs. obviously, opium is a drug which is injurious to health.

No one has a legal right to sell liquor from the earliest times it has been found expedient to control the use and traffic in liquor, and
this control embraces both regulatory and prohibitory measures. This principle has been recognized in this article, from time to time prohibition policies have been upheld under this provision. In *State of Bombay V. F.N. Balsara*\(^4\) In this case the directive that the state shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs was taken into consideration in support of the courts decision that the restrictions imposed by the Bombay Prohibition Act. In respect of possession, sale, use or consumption of liquor were not unreasonable restrictions on the exercise of the right guaranteed under Article 19(1). It may be noted that this article only deals with the matter of prohibition and says that while prohibition is being enforced, it will not cover the matter of consumption of intoxicating drinks or drugs for medicinal purposes. But this does not mean that, intoxicating drinks or drugs are found to be misused on a large scale for the purposes of intoxication and not for medicinal purposes, a prohibition of such use will not amount to disobedience of the directive.\(^5\)

Since the state under Article 47 is under an obligation to take steps for the improvement of public health, the Andhra Pradesh High court in *M. Vizaya V. Chairman Singareni Collieries*\(^6\) held that it was
necessary for the state to identify HIV +IVE cases and any action taken in that regard could not be termed as unconstitutional.

2.2. POSITION AFTER 42ND (AMENDMENT) ACT 1976.

Now all the air of doubt has been cleared, the things which were implicit in the constitution has become clear in explicit manner because an amendment has been made in directive principles of State policy in which a new article 48-A was added and at the same time a new part IV-A was also added in the Constitutional framework.

(A) ARTICLE 48-A OF THE CONSTITUTION.

"PROTECTION AND IMPROVEMENT OF ENVIRONMENT AND WILD LIFE"

This Article requires: "The state shall endeavor to protect and improve the environment and safeguard the forests and wild life of the country."

Article 48-A was added by the Constitutional (42nd Amendment) Act, 1976. Article 48-A and Article 51A(g) respectively enjoin the state and the citizens, the duty not only to protect, but also to improve the environment and to preserve and safeguard the forests, Flora and fauna. 17

The Environment (Protection) Act, 1986 and Wild Life
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(Protection) Act, 1972 as amended by the Act of 1986, are among the steps taken to give effect to the mandate contained in Article 48A to enable effective steps being taken for the purpose by both the central and state government. Wild Life and forest have now been placed in the concurrent list of the seventh schedule by the constitution (42\textsuperscript{nd} Amendment) Act 1976.

The Supreme Court of India in \textit{M.C.Mehta v. Union of India} has relied on Article 48-A and gave directions to the Central and State governments and other Local Bodies and Boards, to have appropriate steps for the prevention and control of pollutio water, keeping in view the mandate of Article 47 and 48-A the Supreme Count has issued directions from time to time with a view to tackle the problems arising out of chaotic traffic conditions and Vehicular Pollution.

Referring to the \textit{Pradeep Krishan's case}, wherein the court had pointed out that the total forest cover in the country was far less than the ideal minimum of \(1/3\)\textsuperscript{rd} of the total land, the Supreme Court observed that they could not afford any further shrinkage in the forest cover in our country. The entry of villagers and tribal living in and around the sanctuaries and the national park, being one of the reasons for the shrinkage in the forest cover, the court expressed that there
could be no doubt that urgent steps must be taken to prevent any
destruction or damage to the environment the flora and fauna and
wild life in the areas. The state government had been carpeted to act
with a sense of urgency in matters enjoined by Article 48-A keeping in
mind the duty enshrined in Article 51-A(g) of the constitution.

(B) ARTICLE 51 A (g)

Part IVA of the constitution which contains the fundamental
duties of the citizens of India was added by the Constitution (42nd
Amendment) Act, 1976. It contains Article 51A only in which Ten
duties are imposed over the citizens of India but one more duty under
Article 51A(K) is added by the Constitution (86th amendment ) Act,
2002.

Article 51A (g) lays down the duty on the citizens of India to
protect and improve the natural environment including forests, lakes,
rivers and wild life and to have compassion for living creatures. The
Supreme court in Shri Sachidanand Pandev V. State of W.B. 22 held that
whenever a problem of ecology was brought before the court the court
was bound to bear in mind article 48A and Article 51A(g). It has been
said that the fundamental duties must be used by the courts as a tool
to tab, even a taboo on state action drifting away from constitutional
values. In *M.C. Mehta Vs Union of India*, the Petitioner by way of a public interest litigation filed a writ petition for the prevention of nuisance caused by the pollution of the river Ganga. Having regard to the grave consequence of the pollution of water and air and the need for protecting and improving the natural environment, the supreme court gave appropriate directions:

(i) that the duty of the central government to direct all the educational institutions throughout the India, to teach at least one hour in a week, lessons relating to the protection and the improvement of the natural environment including forests, lakes, rivers and wild life in the first ten classes, (ii) that the Central Government should get text books written for the said purpose and distribute them to the institutions free of cost, (iii) that the children should be taught about the need for maintaining cleanliness, commencing with the cleanliness of the house both inside and outside and of the streets in which they live.

The Gujarat High court in *Mis Abhilash Textile Vs Rajkot Municipal corporation* relied upon Article 51A(g) duty and held that notices asking the petitioners to stop discharging the effluents from the factory on Public road or drainage, harming natural environment,
on the pain of closing factory were valid.

At last it is submitted that Articles 48A and 51A(g) have to be considered in the light of Article 21 of the constitution. Any disturbance of the basic elements of the environment namely air, water and soil, which are necessary for ‘life’ would be hazardous to “life” within the meaning of Article 21. In the matter of enforcement of rights under Article 21 the Supreme Court, besides enforcing the provisions of the Acts, has also given effect to fundamental rights under Articles 14 and 21 and has held that if those rights are violated by disturbing the environment, it can be awarded damages not only for the restoration of the ecological balance, but also for the victims who have suffered due to that disturbance. In order to protect “life” in order to protect “environment” and in order to protect “air” water and soil from pollution, the Supreme Court through its various Judgments has given effect to the rights available to the citizens and persons alike under Article 21, under Public law domain, the court, in exercise of its power under Article 32, has awarded damages against those who have been responsible for disturbing the ecological balance either by running industries or any other activity which has the effect of causing pollution in the environment. The court while awarding damages also
enforces the "polluter pays principle" which is widely accepted as a means of paying for the cost of pollution and its control. To put it in other words, the wrong doer, the polluter, is under an obligation to make good the damages caused to the environment.25

2.3. LEGISLATIVE FRAMEWORK-

Environmental law is an instrument to protect and improve the environment and control or prevent any act or emission of pollution or likely to pollute the environment. In view of the enormous challenges thrown by the industrial revolution, the legislatures throughout the world are busy in this exercise. Many have enacted laws long back and they are busy in remodeling the environmental law. The others have moved their law making machineries in this direction except the under-developed states who have yet to come in this wave length. India was one among the few countries, which paid attention right from the ancient time down to the present age, and till date, the tailoring of the existing law to suit the challenging conditions is going on. 26

The historicity of the Indian environmental Law heavily emphasized the value and respect for nature. The society in the ancient time paid constant attention to the protection of environment. At that
time it was the dharma of each individual in the society to protect and worship the nature. The trees, water, land and animals gained important position in the ancient time. Kautilyan regime, which expressly envisaged a systematic management of forests. The quantum of Punishment, for falling of trees was proportionate to the utility of the tree management of forests was conditioned by the need for promotion of forest based industries or crafts exploitation of forest wealth in making house hold articles and for defence purposes. 27

During the British period, the year 1860 is the landmark is the history of the legal control of environmental pollution. For the first time an attempt was made to control and regulate water and atmospheric pollution through criminal sanction. The Indian penal code was the first general law to prohibit fouling of water mischief and public nuisance. Apart from the Indian penal code the British India saw a number of Legislations, which had a direct bearing one or the other component of environment. 28

The penal provisions are contained not less than 300 other legislations that directly or indirectly touch the environmental matters. Moreover, there are several limiting factors of criminal justice system and of criminal sanctions that have made the enforcement of
environmental laws, a complex and messy affair. The English law of torts was also gradually emerging as a device to compensate the sufferers for the civil wrong. The entire exercise in the environmental pollution shows that the British rule did not require much legal control in the area of water and air pollution. 29

The Journey from the Stockholm conference to Rio Summit led to the recognition that all human beings are entitled to a healthy and productive life in harmony with nature. It was this recognition that was responsible for the enactment of various environmental laws in India. The early statutory attempts in India to control pollution can be traced to the legislation of the local bodies and their nature selective and specific. Until the Stockholm conference, India had no law relating to environmental protection as such. The eighties and the nineties marked the significant changes. No doubt in view of the continuing deteriorate in the quality of environment has been engaging the government attention to adopt stronger environmental policies, to enact new legislations and to create, recognize and expand administrative agencies because of the industrial mass disaster caused by national and multinational corporations such as union carbide and Sri Ram not only gave a warning signal to the country’s environmental
sustainability but also exposed the loopholes in existing environmental legislations. 30

At present in India, there are at least 52 environmental and resource protection laws, which was framed by the Ministry of Environment and Forests (MOEF). 31 These laws, rules and notifications have formed the correlated legislative framework of environmental protection in this country. It is appropriate at this juncture to take stock of federal structuring of environmental laws to appreciate the legislative, administrative and institutional mechanism. To begin with we will glance over the following Indian environmental legislations:

(A) THE WILD LIFE (PROTECTION) ACT, 1972,

Indian is a country where sacred groves and hunting preserves, wildlife sanctuaries and biosphere reserve all combine to protect wildlife since the time immemorial. It was only in 1972 Parliament enacted a comprehensive Wildlife (Protection) Act 1972 Provides the Statutory Framework for protecting wildlife animals, plants and their habitats. Further in 1976 by Forty second Amendment Act wildlife in India finally got its due place and recognition under Article 48-A and 51A(g) of the constitution. The most recent statutory initiative is the
1991 amendment to the wildlife Act, Parliament extended the Act to the whole of India except Jammu & Kashmir. 32

The wildlife Act provides for state wildlife advisory boards 33, regulation for hunting wild animals and birds 34, establishment of sanctuaries and national parks, regulations for trade in wild animals 35, animal products and trophies 36, judicially imposed penalties for the violating the Act 37, under the Act, the state government may declare any area of adequate "ecological, faunal, floral, geomorphologic, natural or Zoological significance, a Sanctuary or a national Park 38. In both sanctuaries and national Parks, Public entry is restricted and the destruction of any wildlife or habitat is prohibited 39. Again the Wildlife (Protection) Act-1972 amended in 2002.

(B) THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974.

The water (prevention and control of pollution) Act, 1974 was enacted for the purpose of prevention and control of water pollution and the maintaining of restoring of whole sameness of water. This Act is popularly known as Water Act. It represents India’s first attempts to deal comprehensively with an environmental issue.

The Water Act is comprehensive in its coverage, applying to
streams, Inland waters, subterranean waters and sea or tidal waters. Standard for the discharge of effluent or quality of the receiving waters are not specified in the Act itself. I noted, the Act enables State Boards to prescribe these Standards.\textsuperscript{40} The Water Act establishes a central and state pollution control Boards is empowered to carrying out the purposes aforesaid of Boards for prevention and control of water pollution for conferring on and assigning to such boards powers and functions relating thereof and for matters connected therewith\textsuperscript{41}. When any existing industry, operator or process appears to discharge any poisonous or polluting matters into a stream or well or on land or appears to make in sanitary use of the stream or well, the state Board for reasons to be recorded in writing, (a) remove the polluting matter from the stream or well or land and disposed it of, (b) remedy or mitigate any pollution caused by the presence of such matter in stream or well, (c) issue orders to restrain or to prohibit the person concerned from discharging such matters as provided for in section 32 of the Water Act.

If any existing and working Industry, operation or process contravene the provisions of the Water Act in allowing entry of any poisonous matter into any stream or well or sewer or on land
exceeding the standard as may be laid down by the State Board, the person concerned such industry became liable for the offence and punishment to be awarded there of.

(C) THE FOREST (CONSERVATION) ACT, 1980

The subject forests is transferred from state list to concurrent list by the forty-second Amendment Act, 1975 of the constitution. This transfer empowered the central Government to Act directly in managing India’s forests.

The large-scale deforestation resulting in ecological imbalance and environmental degradations provide new impetus to pass the Forest (Conservation) Act, 1980. The Act prohibits the deletion of a reserved forest, or the diversion of forestland for any non-forest purpose, prevents the cutting of trees in a forest without the prior approval of the Central government and lease out forest land to a private agency. Any contravention of the Act attracts up to 15 days imprisonment. Despite recent efforts to increase forest cover thought reforestation India’s forests are in a devastated condition.

(D) THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

To Implement the decision taken at United Nations conference
on Human Environment in Stockholm in June 1972, in which India participated to make appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of quality of the air and control of air pollution. 

The Air Act of 1981 was amended in 1987, contains several interesting features. The state government can declare Air pollution control areas. Polluters located outside such air pollution control areas cannot be prosecuted by the state board, but it is mandatory upon every industrial operator within an air pollution control area must obtain a permit (consent) order from the state Board.

The Act enable a magistrate to restrain an air pollution from discharging emissions and empowered both central and state boards to give directions to industries which is not followed can be enforced by the Board closing down industry or withdrawing its supply of power and water. The citizens can not only sue to enforce the Act to gain compliance by the industries, but can also require the board to provide the emission data needed to build a citizen’s case.

(E) THE ENVIRONMENT (PROTECTION) ACT, 1986.

In the wake of the Bhopal catastrophe, the Government of India enacted the Environment (Protection) Act, 1986, the Act reiterates the
center's commitment with a view to implementing the decisions of United Nations Conference on the Human Environment held at Stockholm in June 1972 in which India Participate to take appropriate steps for the protection and improvement of environment. The statement of object and reason for the enactment of this law says.

"Concern over the state of environment has grown the world since the sixties. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food chains, growing risk of environmental accidents and threats to life support system. The world communities resolve no protect and enhance the environmental quality found expression in the decisions taken at the United Nations conference on the Human environment held in Stockholm in June 1972. While several measures have been taken for environmental protection both before and after the conference, the need for a general legislation further to implement the decisions of the conference has become increasingly evident." 50

The potential scope of the Act is broad, in the sense that it defined "environment" which include water, air and land and the enter-relationships which exist among water, air, land and human.
beings and other living creatures, plants, micro-organisms and
property and '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. 51 'Hazardous substances' include any
substance or preparation which may cause harm to human beings,
other living creatures, Plants, micro-organism, property or the
environment. 52

Concentration of Power in the hands of the central government
is the main feature of the law. The Section 3(1) of the Act says:

"Subject to the provisions of this Act, the central Government
shall have power to take all such measures as it deems necessary or
expedient for the purpose of protecting and improving the quality of the
environment and preventing, controlling and abating environmental
pollution".

The measures include a wide range activities such as
coordination of actions by state Governments, officers and other
authorities, planning and execution of nation wide programmes,
standard fixing, restriction of areas for industries and operations,
laying down of procedures and safeguards, inspection of any premises
and dissemination of environmental information. The central government can create authorities, appoint officers, issue binding directions and delegate its power to State governments, authorities or officers. Significantly the Power to issue directions includes the power to direct closure, prohibition or regulation of any industry, operation or process or stoppage or regulation of the supply of electricity or water or any service. Even in a case where there is a fear of an accident as a result of discharge of environmental pollutions, the persons in charge of the place has a Statutory duty to take preventive measures as well as to charge of the place has a statutory duty to take preventive measures as well as to inform the authorities of the likelihood of an accident.

(F) THE PUBLIC LIABILITY INSURANCE ACT, 1991

The Public Liability Insurance Act, 1991 is a Parliamentary Enactments which has come into force on 1st day of April 1991 to provide for relief to persons affected accidents occurring while manufacturing, processing, treating, packing, transporting by vehicle using, collecting, destroying, converting offering for sale or transferring any hazardous substance i.e. any substance or preparation which by reason of its chemical or physico-chemical properties or
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handling is liable to cause harm to human beings, other living creatures, plants, micro-organism, property or the environment.\(^{56}\)

The growth of these hazardous industries accompanied by the inherent risk not only to workmen employed in such undertaking but also the innocent member of public has been cause of deep concern. The Act mainly protects the members of weaker section of society, who by reason of their limited resources cannot afford the prolonged litigation in a Court of law.

To achieve this goal, it envisages for the mandatory public insurance based on the principles of "No Fault Liability". The 1991 Act in its original shape could not be implemented on account of insurance companies not agreeing to give policies for unlimited liability of owner. But the 1992 amendment provided a limited liability. Section 4 of the P.L.I. Act. obligates the person who has to hear the liability under section 3(1) thereof to over such liability through insurance policy's to be taken before the starts handling any hazardous substances and keep it always in force. The owner's liabilities to pay compensation are two fold. Firstly, he is required to provide immediate relief out of the fund known as environment relief fund. Secondly, the owner has to take insurance policies before starting
hazardous process.

(G) THE NATIONAL ENVIRONMENTAL APPEAL BOARD AUTHORITY ACT, 1992.

The most recent of legislations in regard to settlement of Pre-disaster environment disputes is the National Environment Appellate Authority Act of 1997. It is expected to have the necessary expertise and experience to deal in a balanced way appeals with respect to sanction or location of industries as well as the conditions under which they are to be carried out. The law is intended to avoid the delays involved in such cases in the regular Court system and to provide the necessary scientific and technical support for decision making according to the Environment Protection Act (1986) and Rules. The Authority has a states at per with the Supreme Court and High Court because of its' composition, autonomy and procedures. The chairperson has to be either a Judge of Supreme court or the chief Justice of a High court. Vice-chairpersons have to be people with professional technical or administrative experience in the field.  

The Authority is given wide Jurisdiction to entertain appeals from persons affected by granting of environmental clearance, persons who own or control projects for which clearance is sought, voluntary
associations affected by such order, the central government where the environmental clearance is granted by the state Government and where it is granted by the central government, and from any local authority is whose limits the project concerned is proposed to be located. By requiring the Authority to dispose of the appeal within ninety days from the date of filing the appeal, the Act has assured expedition in dealing with environment disputes. The authority is given powers to regulate its own procedure (not being bound by the code of civil procedure) Subject only to the principles of natural Justice and the rules, if any, framed by the central government in this regard. It can sit for inquiry in any place it chooses. It has the powers of a civil court trying a suit. All civil courts and other authorities are barred from exercising Jurisdiction to entertain appeals in respect of any matter with which the authority is empowered under the Act. The Proceedings before the authority are declared by the Act as Judicial proceedings. Non obedience of orders of the Authority are made serious offences punishable with imprisonment up to seven years or with fine up to one lakhs of rupees or with both. If the offence is committed by a company, all those in charge of the company as well as the company deemed to be guilty and liable to be punished.
Despite all these constitutional and legislative frame work, the quality of the Urban and rural environment continues to decline. The basic reason behind these problems is the Slack performance of the enforcement agencies.
NOTES AND REFERENCES


11. Supra note (6) at P. 353.


18. Supra Note 2 at P. 404.


22. AIR 1987 SC 1109.

23. AIR 1988 SC 1115.


27. C.M. Jariwala, changing Dimensions of Indian Environmental Law

28. Id at. 3,4.

29. Md. Zakaria Siddiqui, Environmental Laws and limits of criminal

31. http://WWW.Sdnp.delhi.nic.in, see legislation column.


34. Chapter III.

35. Section 39.

36. Section 49B.

37. Section 51.

38. Sections, 18, 35.

39. Section 27 and 35.

40. Section 17 (g) of water Act 1974.

41. Section 16.


43. Supra Note 32 at 291.

44. P. Leela Krishnan, Environmental Law in India, 13(1981).
45. See the Air Act 1981.

46. Section 19 of Air Act 1981.

47. Section 21.

48. Section 314.

49. Section 43.


51. See Section 2(b) and (c) of Environment (Protection) Act 1986.

52. Section 2(e).

53. Section 3(I) to (XIV)

54. Section 3(3).

55. Section 5.


58. Ibid.

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