INTRODUCTION

1.1 INTRODUCTION

Human development has generally been parasitic on the environment because there is fundamental interdependence between environment, the physical, biological and social surroundings and their interactions, that sustain all life forms. When the integrity of the planet’s ecosystems suffered imbalance, human insecurity increases. There is a close relationship between environment and life. Destruction of environment leads to destruction of all living creatures including human beings. Over production, over exploitation of resources, nuclear radiations, industrial wastes, industrial accidents, brutal exploitation of forests, indiscriminate quarrying, pollution of rivers and water resources, rapid increase of air and noise pollution are the contributing factors for environmental degradation. Global warming, ozone depletion and pollution are some of the negative effects of existing development strategy, which badly affect the human life. The notion of development should be to protect soils, animals, forests, human health and the atmosphere but not mere insistence on progress of development. Therefore, there is a need to identify a development that promotes both ecological development and international viability.

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Environmental deterioration has seriously threatened the human life, health and livelihood. Thus, there has been a thrust on the protection of environment world over and so evolved the environmental law with global concern. International concern for environmental protection has gained momentum with Stockholm Declaration in 1972. It is considered to be Magna Carta of environmental protection and sustainable development. Then a series of global efforts have been undertaken internationally to protect environment. Hence, environmental protection has become not only local, regional or national importance but has global concern.

1.2 IMPORTANCE OF THE TOPIC

Environmental Pollution has now evolved and grown to be a global problem. The very existence of the man depends upon the Nature, which is based on the ecological balance, with the development of Science and Technology and ever increasing world population. Tremendous changes in human environment took place. These changes upset the eco-laws and shook the balance between human life and the Environment and brought innumerable problems affecting the Environment.

The life of human beings depends upon not only on the environment but also upon ecological factors. Ecology means the study of the relationship between organisms and all aspects of their environment. So, the human beings should learn about environment and environmental factors and also about ecological factors which influence the environment. The environment and
ecology are interrelated sciences. The life of human beings depends upon the ecological balance and environmental protection. If the human beings protect the environment and promote the ecological development automatically an environment free from pollution may be developed and with that development of the living conditions of human beings and living organisms will be developed. If any destruction caused to the environment and ecological factors it certainly leads to the destruction of human beings. So, there is a need to protect environment and maintain ecological balance by each and every human being.

1.3 STATEMENT OF THE PROBLEM

Environment protection becomes one of the foremost concerns of the world community. Environmental deterioration through human activity is proceeding at an unprecedented rate. Unless this process is held in check, the damage caused will be grave and irreversible, damaging not only ourselves but future generations. The environmental damage will be caused not only in the nation where it occurs but at the global level in general. All public institutions, including the judiciary, need to make collective effort to fight against this universal peril. Human activities sometimes tend to submerge concepts such as respect for nature, trusteeship of earth resources and community interests in common amenities, present in the traditions of many developing countries. These traditions can be a rich source of inspiration for the environmental law of the future, where relevant attention is drawn to them.
Man’s environment consists of natural resources like land, water, air, plants and animals. With the progress of civilization man has to interact with his surroundings and disturbed the nature. It leads to environmental pollution, which cannot be eradicated by nature’s self acting process i.e., carbon cycle, nitrogen cycle or water cycle. These unfavorable conditions created by man generated the problems of environmental disasters and disorders. Environmental devastations from both natural and man made causes such as earth quakes, cyclones and nuclear explosions, industrial accidents etc., have increased threat for the human life. Each factor contributing to environmental decline serves in varying degrees to heighten economic disruption, social tension and political antagonism. Therefore, the study necessitates to bring into light the environmental insecurity and its direct effect on people, physical, social, economical, emotional and spiritual wellbeing and the very existence of life itself.

1.4 SCOPE AND LIMITATIONS OF THE STUDY

The study aims at analysing not only the scientific and technological aspects causing damage to the environment but also judicial trends in the growth of environmental jurisprudence since 2000 and the case laws relating to environment as deliberated and decided by the Supreme Court and various High Courts will be taken up for examination. In this study the concept relating to “Environment, Environmentalism, Ecology, Ecosystem, Nature and

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Scope of Environment, National and International Documents on Environmental Law, General and Specific Laws relating to Environmental Protection and the role of Supreme Court of India in the Protection of Environment and Ecological Development will also be discussed.

Environmental law is a comparatively new branch of law and has evolved mainly over the last thirty years. It is, therefore, as yet in a formative stage and is undergoing a process of rapid development inspired by a quantum leap in our understanding of the environmental challenge. By reason of its comparatively recent emergence, urgency in protecting and preserving environment necessitates the study.

Over the past several decades, growing public awareness of threats to the environment, informed by warnings of scientists, has led to demands that law protect the natural surroundings on which human well-being depends. Under growing pressure from national and international public opinion, governments began to demonstrate concern over the general state of the environment during the 1960s and introduced legislation to combat pollution of inland waters, ocean, and air, and to safeguard certain cities or areas. Simultaneously, they established special administrative organs, ministries or environmental agencies, to preserve more effectively the quality of life of their citizens. Developments in international environmental law paralleled this evolution within states, reflecting a growing consensus to accord priority to resolving environmental problems. Today, national and international
environmental law is complex and vast, comprising thousands of rules that aim to protect the earth’s living and non-living elements and its ecological processes.

Environmental problems stem from two main categories of human activities. First, the use of resources at unsustainable levels and contamination of the environment through pollution and secondly discharge of the wastes at levels beyond the capacity of the earth and environment to absorb them or render them harmless results in ecological damage and environmental degradation. Environmental damage around the world includes: biodiversity loss, pollution of water and consequent health problems, air pollution resulting increase in respiratory diseases, causing deterioration of buildings and monuments, loss of soil fertility, desertification, increase in skin cancers and eye diseases in certain areas due to ozone depletion, and more widespread diseases. Environmental hazards are created by the excess consumption propensities of rich people, while the weight of environmental degradation is primarily borne by the poor people. Economy, efficiency and effectiveness are already a part of the public audit lexicon, equity being the only novelty imposed by environmental concerns. The usefulness and acceptability of environmental issues are greatly advanced, especially in view of the enormous scope the topic offers for the study.
Therefore, the above conditions lead the researcher to discuss Environmental Protection and Ecological Development - The Perspectives of Supreme Court of India with great interest keeping the significance and gravity of Environmental pollution and to take effective measures for the protection of environment and ecological development in India.

The topic in this research work provides wide range of challenges to environmental protection and ecological development and the perspectives of Supreme Court of India. This study enlightens and scrutinizes the cultural, spiritual, national, international dimensions of Environmental Law and policies for the protection of environment and ecological development. The study discusses the supremacy of Indian Judiciary over legislatures which passed different laws to minimise Environmental hazards and played the key role to tackle the problem. The study analyses the role of Supreme Court in curtailing the discretionary powers exercised by the Union and the State Executive and protecting the environment and ecological development.

There are many different environmental, developmental and security problems. They are either related directly or indirectly to each other or unrelated. It is difficult for researchers to ascertain their complex interactions and gauge their effects and to provide correct solutions. It is true that research is the beginning and is not conclusive. It is a drop of the ocean of vast environmental studies. Thus the researcher has certain limitations. The scope of the present study extends to explore the need for protection of environment and ecological development in India.
1.5 SIGNIFICANCE OF THE PROBLEM

The environmental degradation has become the subject of global concern and it possess a challenge to the present and the future generation of mankind. As such the environmental protection should be a priority and high social visibility item for the very existence of life and for the protection of right to life. One must not forget that it is the responsibility of present generation which has the opportunity to tackle environmental problems because the next generation will not be there if the present situation is allowed to continue. The environmental challenges provide a much more formidable and permanent target because a healthy environment is a necessary prerequisite of Right to life. The environmental agenda is no longer one of ethical or social sentiment; it has now become question of human survival. Thus the researcher tempted to investigate this significant problem.

The people are the part of environment and the environment is the part of the people, and thus, the human beings must restore, sustain and expand the universal ecosystem before it vanishes. Therefore, the aim is to protect the ecosystem and to secure living environment for all living beings. But in view of continued degradation of earth’s environmental wealth, Environment for sustainable development would appear to be the only means by which an acceptable quality of life could be secured for both present and future generations. The global threat affecting the environment demands immediate solution. Technological process has brought huge number of
chemicals into day-to-day life. They have brought immense convenience in the living, such as better standards of living, but they also brought new dangers, largely through the chemical wastes. Growth of population, increased urbanization, poverty, exploitation of resources, unprecedented expansion of science and technology are some basic causes, responsible for environmental disorders, posing significant problem for living beings. These problems can only be addressed through education and awareness. Therefore, the researcher selected this significant problem.

1.6 OBJECTIVES OF THE RESEARCH STUDY

The main purpose of this research is to add new knowledge to the existing one, it cleanses our minds of clichés and removes the rubbish of inapplicable theory and gains new knowledge and insights\(^4\). The doctrinaire research of this kind attempts to provide new insights and thoughts into the existing source material by suggesting new explanations and tests with the hypothesis.

Keeping in view of the above, the present research work has been carried out with the following objectives:

- To highlight the impact of environmental pollution on the lives of human beings.

To study the Constitutional Provisions relating to Protection of Environment.

To review the laws both National and Global relating to Protection of Environment and Ecological Development

To trace the history of Ecological balance and Indian ethos.

To appraise various Policies and contribution of United Nations Organisation with regard to protection of environment.

To analyse the perspectives of Supreme Court of India on Environmental issues.

1.7 HYPOTHESIS

Hypothesis is a tentative generalisation and provides adequate explanation under study which may be proved or disproved. It limits the scope of study and confines the researcher within the parameters and is based upon existing material from new angles. The assumptions may be certainly probable and are to be verified and attempted to make conclusions at the end with the above objectives. The researcher has some generalised views on the present research work.

- The environment will have direct impact on the life of human beings.
  The environmental degradation directly affects the very existence of life of the people.

- The recognition of Environment, as a basic human right and the principle of ecological development are the greatest contribution of United Nations Organisation.
The pollution created on natural environment will surely affect the fundamental Right to life.

The Supreme Court of India has kept a balance between the protection of environment and ecological development.

There are many National and Global Laws for the Protection of Environment and Ecological Development. But there is a lacuna in implementation of Laws for the Protection of Environment.

Due to number of loop holes in environmental protection (Act 1986) laws are not effectively preventing environmental pollution.

The reasons for the protection of environment may be identified by applying various acts.

The environmental protection Act 1986 may not adequately fit into Indian situation since it is highly populated nation.

The economic development is needed for protection of environment.

In the name of development environment cannot be destroyed.

For constant developments and advancements in maintaining ecological balance a comprehensive legislation is required.

1.8 REVIEW OF LITERATURE

Now a days environmental deterioration has rapidly increased. Research and publicity also increased. Scholars, environmentalists, researchers and writers added more knowledge and discussed in their studies and writings. There are a number of publications, books and periodicals in developed and developing countries with regard to environment and ecological development.
The review of literature is focussed to have insight into existing literature on the subject. The present research work is mainly based on secondary source material and the work is in the form of doctrinaire research. Environmental law, being a relatively new field, is largely contained in written texts, although some common law principles are relevant and customary international law is emerging. To have knowledge on the problem thoroughly the researcher referred and reviewed available literature. The following books are referred for the source material as the present research work.

**Mahesh Mathur** in his work discussed the various kinds of pollution, environmental management strategies and environmental protection under various laws, common law remedies, specific provisions under Constitution and other laws and also provided special laws relating to environment in India⁵.

The authors presented the environmental issues covering various factors affecting environment, sources of pollution, extent of pollution in India and environmental management strategies, concept of sustainable development, the global environmental issues and legal enactments relating to environmental pollution in detail⁶.

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⁵ Mahesh Mathur, *Legal control of Environmental Pollution, Jurisprudence and Laws applicable to environmental violation and prevention*, 1999.

Armin Rosencranz, in his book discussed about cases, articles and statutes and interpretation of current cases dealing with whole range of environmental issues. He has paid special attention to equity issues and to environmental problems of the urban and rural poor and International environmental law and global issues are also discussed⁷.

The book authored by Paras Diwan has two volumes on laws relating to environmental protection and prevention of pollution. The first volume deals with various issues on environmental protection, kinds of pollution, judicial activism and also deals with leading cases on environment. The second volume contains all the statutes with Rules framed there under relating to environment⁸.

The book titled Living with Nature is a compilation of many essays presented by different authors. In this book the authors elucidated the problematic, social and cultural assumptions underlying the dominant environmental discourse. They also suggested the alternative ways of deliberating about the meaning of nature and environmental politics⁹.

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⁷ Shyam Divan and Armin Rosencranz; Environmental Law and Policy in India cases materials and statutes, 2001.
⁹ Fishcer Frank and Maarten A. Hajer, Living with Nature Environmental Politics as Cultural discourse, 1999.
Justice Ashok A. Desai in his paper presented in the International Conference, 1994 at New Delhi, on the topic Juris-environmental Prudence. The subject involves numerous topics and he made an endeavour to trace, analyse and consolidate various facets, aspects, trappings, development and events related to environmental jurisprudence. He also covered historical prudence, codification, development strategies, legislative measures, global environmental regulation and judicial contributions. Environmental spiritualism and Environmental sovereignty, is a distinguishing feature of the paper and he has elaborately quoted national and international declarations and recommendations related to environmental\textsuperscript{10}.

Dr. P.S. Jaswal and Nishtha Jaswa discussed the environmental protection and sustainable development including the religious and cultural heritage in India, Remedies for environmental pollution various Constitutional and legislative provisions, judicial attitude, the concept and international perspectives of sustainable development with appendices containing International provisions and national enactments in detail.\textsuperscript{11}

The authors in their books discussed the Environmental protection and how the air and water pollution has been related with the fundamental rights under Constitution of India. He also discussed the various enactments passed by the Parliament and the State Legislatures\textsuperscript{12}.


\textsuperscript{11} Dr. Paramjit, S. Jaswal and Dr. Nishtha Jaswal, \textit{Environmental Law}, 2000.3

Prof. Dwivedi, in his book discussed wide range of environmental issues faced by India, the political, institutional, legal, cultural, spiritual and international dimensions of India’s environmental challenges. The work deals with various factors that influence environmental quality and provides a framework for environmental management both national and international concerns and made suggestions for improvement of environmental conservation.\(^\text{13}\)

Justice V.R. Krishna Iyer, presented the wide range of topics on environmental quality. The book contains a wealth of legal information regarding the most and developing subject “Environmental pollution”. It is divided into two parts. Part I contains the articles and case study and Part II contains the legislations framed by the Government of India on protection of Environment.\(^\text{14}\)

Har Darshan Kumar and Swathi Kumar have discussed the environmental challenges faced or facing in developed and developing countries. The process of global change, global problems such as loss of biological species, green house effect, acidification, deforestation, fresh and marine water environments, international events, in a systematic manner.\(^\text{15}\)


\(^\text{15}\) Har Darshan Kumar and Swati Kumar, *Global and general environment*, 1997.
Sunit Gupta has explained the diverse issues of environment and complexity of the problems emerging due to environmental degradation, the present status of global environmental issues and international events in nut a shell\textsuperscript{16}.

In all the above reviewed literature different aspects of environmental issues such as sources of pollution, factors affecting environment, concept of sustainable development, legislative, judicial and international environmental perspectives and other environmental challenges being faced by the world were discussed. But no author discussed the problem of investigation in this particular angle and wherever it is discussed, it is not adequately discussed in the books referred; hence the researcher selected the Environmental Protection and Ecological Development – The Perspectives of Supreme Court of India. Thus, after reviewing all the above literature, the researcher felt that there is scope and need for further investigation into the approach of Judiciary is not that of the agitators of environment protection but that of objective arbitrator in protecting the rights of human being and the environment.

1.9 METHODOLOGY AND SOURCE OF DATA

The researcher has followed the doctrinal method. In order to ascertain the environmental jurisprudence several legal sources like commentaries and case laws have been referred. Further, the international Conventions, Treaties, Declarations and National Environment moments and the contribution of

Judiciary to the development of law have been revised. The researcher has also studied to demonstrate the interconnection between rights, environment and development.

In the process of preparing the thesis, the researcher has gathered the material from various sources relating to environmental protection. The present study being a socio-legal problem, the researcher has adopted the doctrinaire research and collected the material from both primary and secondary source and from legal and non-legal sources like authoritative text books, book reviews, reports, digests, journals like fortnightly, monthly, quarterly, half yearly and yearly digests, periodicals, magazines, News papers, weekly’s etc.

Further, certain material has also taken from the Constitutional Assembly Debates and the Judgements of Supreme Court and various High Courts of India. Books written by foreign authors are also referred a lot because the problem selected for study is a global problem and also to have complete knowledge on the problem. The researcher has visited various libraries, met various Environmentalists, Members of A.P. Pollution Control Board, to gain personal experience from them and referred various websites for collection of literature on the research topic.
1.10 SCHEME OF CHAPTERISATION

Having acquired necessary material and knowledge on the research topic, to make a critical and analytical study the researcher has divided the whole thesis into eight chapters.

The topics discussed in this research work provides, wide range of environmental issues and its impact on human beings. This study examines and analyses the legal, cultural, spiritual, national and international dimensions of India’s environmental challenges.

Chapter I–Introduction: In this chapter the researcher has discussed the topic on which the research work has been undertaken, statement of the problem, scope and limitations of the study, review of literature, objectives of the study hypothesis, methodology and the scheme of chapterisation.

Chapter II- Concepts of Environmental Protection Ecological Development and Related Terms: This chapter deals with the definition of various words relating to Environment, environmentalism, Ecology, Ecocentrism, Ecosystem, Ecology and society and discussed the Environment Protection and Ecological development as ethics and values and also discussed the Ecological balance as an aspect of Human Right.

Chapter–III: Environmental Protection and Ecological Development – Global and International Perspectives: This chapter deals with the Environmental Protection and Ecological Development, various International
Treaties for protection of Environment, an assessment of United Nations contribution and the impact of Globalization. Discussed, various international events related to environment and sustainable development, the perspective of developed and developing nations and need for a global environmental policy. Governments protect the environment on the basis of their various constitutional and statutory powers to promote the general welfare, regulate commerce and manage public lands, air and water. National authorities may accept additional duties to protect the environment by entering into bilateral and multilateral treaties containing specific obligations. Promulgation of regulations and permits by administrative authorities is another important source of environmental law. Knowledge of the relevant international law can be of great importance in interpreting the domestic legislation, where national legislation has been based on international instruments or norms.

**Chapter–IV: Ecological Balance and Indian Ethos:** In this chapter the ancient Indian mandate, medieval period and the Gandhain perspectives were discussed. This chapter consists of the ancient and historical prudence and examines the relationship of humans with nature from spiritual perspective and discusses the early environmental legislation in India. This also provides an insight into the Gandhian environmental prudence. This chapter is discussed for a comprehensive understanding of the emergence of the roots of environmental law and also about spirituality to project that for centuries Religion, culture and spiritual traditions have played an important role and integral part in shaping the attitude of Indian people towards nature. Law
emerges from the cultural traditions and moral and religious values of each society. These traditions and values continue to impact the development of legal norms. In the context of environmental protection, cultures, religions and legal systems throughout the world contain elements that respect and seek to conserve the natural bases of life, maintaining concepts that can enhance and enrich the development of modern environmental law.

Chapter–V: Policies of Indian Government-Pre and Post Independence:
In this chapter various policies of the Government both National and International, during British period and after Independence relating to protection of environment and Ecological development are discussed. National parameters with regard to environmental sustainability, the constitutional ingredients, major environment laws and some relevant regulations like policy instruments and some impediments are discussed which are affecting to protect environment and to promote ecological development. Legislative texts often establish general environmental policy, supplemented by specific laws, administrative regulations and statutes. These statutes use common techniques and procedures of environmental protection. At the same time, they often respond to specific environmental concerns in the country, such as the safety and environmental consequences.
Chapter–VI: Environmental Protection and Ecological Development

Constitutional Imperatives and Legislative Frame Work: This chapter deals with the provisions of the Constitution of India and the various National and International Laws relating to protection of Environment and Ecological Development. Environmental laws are regulated by various sources of national law. On the national level, many constitutions now contain provisions establishing environmental rights, or set forth governmental duties to protect the environment and the state’s natural resources. More than 100 constitutions refer to a right to a clean and healthy environment, impose a duty on the state to prevent environmental harm or mention the protection of the environment or natural resources. Constitutions also contain reference to environmental rights and duties. In this chapter an attempt is also made to present the Constitutional Provisions, Special and General Laws passed for the protection of environment and ecological development in India.

Chapter-VII: Environmental Protection and Ecological Development - Perspectives of Indian Supreme Court. In this Chapter the wisdom showed by Indian Judiciary in protecting the environment and the planet Earth from various environmental hazards. If a constitution contains a right to a specified environmental standard, the provision must be interpreted and applied. Issues may also arise as to the appropriate remedy, which constitutions usually do not specify. Besides defining obligations for regulated entities, statutory provisions may allow individuals to bring suit against an administrative body that abuses its discretion or fails to comply with its
mandate, and in some circumstances allow for direct citizen action against the polluters themselves. Even where the right to a healthy environment is not expressly provided, other constitutional rights are being interpreted and enforced by courts in an environmental context. A creative application of the right, the judiciary has to some extent hold the state, its agencies and private actors accountable for violations of the right. The judiciary is moreover one of the most valued and respected institutions in all societies. The tone it sets through the tenor of its decisions influences societal attitudes and reactions towards the matter in question. This is all the more so in a new and rapidly developing area. Judicial decisions and attitudes can also play a great part in influencing society’s perception of the environmental danger and of the resources available to society with which to contain it.

The Constitution entrusts the judiciary with judicial power and guarantees its independence in the exercise of judicial functions. Against this background, this chapter focus on the role of Supreme Court of India in protection of environment by allowing letters and petitions to the court as Public Interest Litigation and some important decisions of various High Court and Scheme Court are presented

Chapter-VIII draws the conclusions and made constructive suggestions for the Protection of Environment and Ecological development in India.