CHAPTER - 3

LEGISLATIVE MEASURES OF
WASTE MANAGEMENT IN INDIA

3.1 INTRODUCTION

Protection of Environment is of prime concern to every nation. Global Environment and the entire biosphere are changing fast as a result of the impact of science and technology. Pollution of air, space, outer space, land areas and oceans is taking place rapidly. Because of the application of global technology, ecological changes are occurring in the structures of the earth making an impact on global environment. According to the United Nations Declaration of 1972, maintenance of wholesome human environment, therefore, is the concern of mankind. A clean and healthy environment is essential in both developed and developing societies.

As the environmental pollution has now become a global problem, an adequate preventive legislation has, therefore, become quite essential to control pollution, more particularly industrial pollution that is posing a great danger not only for the workers but also for the people living in the vicinity. Unfortunately, the Indian Law, dealing with environmental protection, is largely statutory, made a priori, and is an abstract law and not a living law.

Industry and its products have an impact on the natural resources. These impacts may be positive, enhancing the quality of a resource or extending its uses or they may be negative, as a result of process and product pollution and of depletion or degradation of resources. Pollution problems that were once local are now regional and global in scale. The incidence of major accidents involving toxic chemicals has grown. Discoveries of hazardous wastes disposal sites have drawn attention to other serious problems. Industrialized countries generate about ninety per cent of the world’s hazardous wastes. The waste management in developing countries suffers-from a variety of problems. With little or no pretreatment of wastes, this could contaminate water supplies or cause local people to be directly exposed to the waste. A land filling generally occurs closed to industrial states that are surrounded by poor neighbourhoods.

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Rapid and extensive industrial expansion, unplanned urbanization, migration of persons from rural to urban areas and improper and inadequate action of the authorities entrusted with the work of pollution control and environmental protection have largely contributed to unhealthy and degraded environment in India. This all, in turn, affected the quality of life of the large number of persons. Unplanned and alarming rate of urbanization has given rise to many environment related problems, such as problem of health and hygiene, sewage, disposal of solid waste, air, water and land pollution, slums, housing and basic amenities. Apart from air and water pollution, most gigantic problem which modern Indian cities are facing is the solid waste disposal problem. India is a “Soft State”. It has excellent environment laws, but politics and or corruption prevent their effective implementation.

Constitution (Forty-Second Amendment) Act, 1976 inserted in the Constitution, for the first time, specific provisions to protect and improve the environment.

The concern for protection of environment, in India has not only been raised to the status of fundamental law of the land, but it is also wedded with human rights approach and it is now well established that it is the basic human right of every individual to live in a pollution free environment with full human dignity. The judiciary has so far pronounced a number of judgments in this regard. The Supreme Court in view of the various laws relating to environment protection and the constitutional provisions has held that the essential features of "sustainable development" such as the “Precautionary Principle” and the “Polluter Pays Principle” are part of the environmental law of the country.

The legislative relations between the Union and the States are governed by Part XI of the Constitution of India. Article 246 of the constitution makes division of the legislative areas between the Union and States with reference to the three lists in the seventh schedule to the Constitution. Article 246 provides that the Parliament has the exclusive power to make laws for the whole or any part of India with respect to matters enumerated in List I (Union list) containing 97 subjects. List I, inter alia, includes regulation and development of oil fields, mines and mineral development and interstate

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2 Id. at 226-227.
3 M.S. Bhatt, Ashenef Illiyian, “Solid Waste Management an India, perspective”, Synergy Books India, New Delhi, 2012, p. 27.
rivers. Article 246 further provides that the State legislature has the exclusive power to make laws for such State or any part thereof with respect to matters enumerated in List II (State List) comprising of 66 subjects.\(^5\) List II, inter alia, includes public health and sanitation, agriculture, water supplies, irrigation, drainage and fisheries.\(^6\)

Furthermore, under the Article 246, both Parliament and the State legislature have the power to make laws with respect to matters enumerated in List III (Concurrent List) (Annexure III) comprising of 52 subjects which, inter alia, includes forests, protection of wild life, etc.

Article 248 confers residuary powers on the Parliament to make laws with respect to any matter not enumerated in Concurrent list or State list. Article 245 makes parliamentary legislation on matters provided in the concurrent list predominant vis-à-vis State legislation. It is clarified under article 245 that in case of conflict between Parliamentary and State legislation on a matter in the Concurrent list, Parliamentary legislation will prevail over the State legislation. However, State legislation will prevail over Central legislation on a matter contained in the Concurrent list only if the State legislation is passed after the Parliamentary legislation and it was reserved for the consideration of the President and has received Presidential assent.

Articles 249 and 250 empower the Parliament to make laws on matters contained in the State list if national interest so requires or if a proclamation of emergency is in operation.

Moreover, according to Article 252,\(^6\) if two or more State legislatures consent to Central legislation on a matter contained in the State list, it shall be lawful for the Parliament to legislate on the matter which otherwise forms part of the State list.

Article 253 enables Parliament to make laws for implementation of international

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6 Article 246 of the Constitution of India states: Subject-matter of laws made by Parliament and by the Legislatures of States – (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matter enumerated in List I in the Seventh Schedule (in this Constitution referred to as the ‘Union List)
(2) Notwithstanding anything in clause (3), Parliament and subject to clause (I), the Legislature of any State (***) also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this constitution referred to as the Concurrent List).
(3) Subject to clause (1) and (2), the Legislature of any State (****) has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the ‘State List)
(4) Parliament has power to make laws with respect to any of matter for any part of territory of India not included in (in a State) notwithstanding that such matter is a matter enumerated in the State List.
treaties, conventions, or decisions taken at the international conferences. Accordingly, the Water (Prevention and Control of Pollution) Act was enacted in 1974:

1. To implement decisions taken at the Stockholm Conferences;
2. At the behest of resolutions passed by 12 State legislatures consenting to parliamentary legislation to this effect.

Likewise, Air (Prevention and Control and Pollution) Act 1981, and the Environment (Protection) Act 1986, were passed by the Parliament under article 253 of the Constitution of India.\textsuperscript{7}

\section*{3.2 THE CONSTITUTIONAL PROVISIONS}

The Indian Constitution is amongst the few in the world that contains specific provisions on environmental protection. The directive principle of state policies and the fundamental duties explicitly enunciate the national commitment to protect and improve the environment.

Environmental protection and improvement were explicitly incorporated into the Constitution by the Constitution (Forty-Second Amendment) Act of 1976. The 42\textsuperscript{nd} Amendment clearly spelt out in the amendment to the Preamble the concept of socialism. In the socialistic pattern of societies the State pays more attention on the social problems than on may individual problem and the pollution is one of them.

\subsection*{3.2.1 Fundamental Rights}

Principle 1 of the Stockholm Declaration on the Human Environment, 1972, provides that “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well being, and he bears a solemn responsibility to protect and improve the environment for present and future generations”. This principle finds reflection in articles 14, 19 and 21 of the Constitution of India dealing with the right to equality, freedom of expression and right to life and personal liberty respectively.

Although the right to pollution free air and water are not explicitly mentioned in Part III of the Constitution but it is included in the right of life under Article 21 of the Constitution because it is very easy to deprive of the right to life to any person by providing the polluted air or water etc. In order to treat a right as a fundamental right it

\textsuperscript{7} Ibid.
is not necessary that it should be expressly stated in, Part III of the Constitution dealing with fundamental rights. The provisions of Parts III and IV, dealing with fundamental rights and directive principles, respectively, are supplementary and complementary to each other. Fundamental Rights are means to achieve the goal indicated in Part IV and thus, must be construed in the light of the directive principles.\(^8\)

Judicial activism in India has taken a lead in interpreting various unremunerated rights in Part III of the Constitution. For example, the right to the free legal assistance, the right of prisoners to be treated with human dignity, right to live with human dignity free from exploitation, right to livelihood, the right to education, right to pollution free air and water etc., are some of the unremunerated fundamental rights declared as such by the judiciary. Though the specific provisions for the protection of environment are found in the directive principles (Part IV) and fundamental duties (Part IV-A), yet right to live in a healthy environment has been interpreted by the judiciary into various provisions of Part IV dealing with fundamental rights. Thus, the judiciary in India has provided impetus to the Human Rights approach for the protection of environment.

3.2.1.1 Article 21

Article 21 of the Indian Constitution deals with Protection of Life and Personal Liberty. It says: “No person shall be deprived of his life or personal liberty except according to procedure established by law”. It assures every person right to life and personal liberty. Its deprivation shall only be as per procedure prescribed by law, but the procedure has to be fair, just and reasonable. The ambit and scope of 'Right to Life' embodied in Article 21 are wide and far reaching. Any person who is deprived of his 'right to life' except according to just and fair procedure established by law, can challenge the deprivation as offending the 'right to life' conferred by Article 21.

Article 21 is the heart of fundamental rights and has received expanded meaning from time to time and there is no justification as to why right to live in a healthy environment, cannot be interpreted in it. For healthy existence and preservation of the essential ingredients of life, stable ecological balance is required. Article 21 guarantees fundamental right to life- a life of dignity, to be lived in a proper environment, free of danger of disease and infection. It is an established fact that there exists a close link between life and environment. The talk of fundamental rights and, in particular right to 

life would become meaningless if there is no healthy environment the judicial grammar of interpretation has made “right to live in healthy environment” as the sanctum sanctorum of Human Rights.

It seems, that for the first time the judiciary recognized the right to live in healthy environment as a part of Article 21 in the case of R.L. & E. Kendra, Dehradun v. State of U.P.\(^9\) In this case, the Rural Litigation and Entitlement Kendra, Dehradun and a group of citizens wrote to the Supreme Court against the progressive mining which denuded the Mussoorie Hills of trees and forest cover and accelerated soil erosion resulting in landslides and blockage of underground water channels which fed many rivers and springs in the valley. The Court ordered the registry to treat the letter as writ petition under Article 32 of the Constitution.

The Supreme Court appointed an Expert Committee to advise the Bench on technical issues. On the basis of the report of the Committee, the Court ordered the closure of number of limestone quarries. The Court observed: “This is the first case of its kind in the country involving issues relating to environment and ecological balance and the questions arising for consideration are of grave moment and significance not only to the people residing in the Mussoorie Hills range but also in their implications to the welfare of the generality of people, living in the country”.

In *M.C. Mehta v. Union of India*\(^10\) (Oleum Gas Leakage Case), the Supreme Court, once again impliedly treated the right to live in pollution free environment as a part of fundamental right to life under Article 21 of the Constitution.

The Rajasthan High Court in *L.K. Koolwal v. State*\(^11\) held that the maintenance of health, preventions of sanitation and environment fall within the purview of Article 21 of the Constitution as it adversely affect the life of the citizen and it amounts to slow poisoning and reducing the life of the citizens because of the hazards created, if not checked.

In *Charan Lal Sahu v. Union of India*\(^12\) Supreme Court of India while upholding the validity of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, held that in the context of our national dimensions of human rights, rights to life, liberty.

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12  (1990) 1 SCC 613.
pollution free air and water is guaranteed by the Constitution under Article 21, 48-A and 51 (A)(g). It is the duty of the State to take effective steps to protect the guaranteed constitutions rights. This observation of the Supreme Court put it beyond doubt that right to live in healthy environment is our fundamental right under Art. 21 and has to be read with Art. 48-A and 51 (A) (g), thereby putting an obligation on the State as well as citizens to protect and to improve it.

3.2.1.2 Article 47

Article 47 under the Directive Principles of State Policy provides that-

“The State shall regard the raising of the level of nutrition and standard of living of the people and Improvement of public health as among its primary duties”

Article 47, thus, provides for the improvement of public health as among the primary duties of the State. For the improvement of public health, it is necessary that the state should be able to provide pollution free environment. In this regard, a clear-cut provision could find a place in the Constitution only in the year 1976 through the 42nd Amendment by inserting Article 48-A, a new Directive principle of the State Policy, and creating a fundamental duty of every citizen under Article 51 A. In this respect, India was the first country to impose a constitutional obligation on the state and citizens to protect and improve the environment as one of the prime duties.

The above mentioned provisions in the Constitution by 42nd Amendment Act of 1976, were made in pursuance of the United Nations Conference on Human Environment convened at Stockholm in 1972, in which the nations of the world decided to take appropriate steps to protect and improve the human environment.

3.2.1.3 Article 48-A

Article 48-A of the Directive Principles of State Policy provides that-

“The State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country”.

Under this Article, the state may not only adopt the protectionism policy but also provide for the improvement of polluted environment. The state may impose restrictions on the use of the factors adversely affecting the environment, and it may adopt means to improve the environment. There was considerable debate in Parliament
over the wording of the draft of Article 48-A. It uses the word "environment" which means the aggregate of all-external conditions and influences affecting life of and development of organs of human beings, animals and plants. The various factors affecting the life and development of organism are viz. air, light, climate, culture, noise, temperature, soil, water, etc. The State while implementing the principles in Article 48-A shall be immuned from the conditions imposed upon under the Article. Therefore, any law relating to environmental pollution will not be subject to judicial scrutiny on the grounds of Article 14, 19 and 21.

Article 48-A also provides for the safeguard of forest and wild life. Safeguard of forests is important factor, which affects environment because the forests maintain balance between the oxygen and carbon dioxide in the atmosphere, which constitutes an important safeguard against air pollution. The Constitution (42nd Amendment) Act, 1976 was a turning point and gave the Centre also the power to legislate on forests by shifting the entry relating to forests from the State List to the Concurrent list as Entry 17-A.

Before the 42nd Amendment, the State could not easily implement the Directive Principles. Now the State, while implementing the principles in Article 48-A, shall be immune from the conditions imposed under Article 14, 19 and 21. Article 48-A further provides for the safeguard of forests and wildlife. It may be suggested that as the protection and the preservation are the basic necessities, the State must give the serious thought to the environmental problems and, if necessary, make effective endeavors to protect and improve the environment.

The Environment (Protection) Act, 1986 and 4 the Wild Life (Protection) Act, 1972, as amended in 1986 are among the steps taken under this article.

3.2.1.4 Article 51 -A (g)

Article 51-A(g) reads as under:-

“It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to compassion for living creatures”.

This Article specifically deals with the fundamental duty of the citizens with respect to environment. This also provides for the protection and improvement of the environment as it specifically puts stress on the water pollution by including matters
like lakes, rivers, etc. But it should not mean that other pollution like noise does not cause any concern. The level of noise pollution in big cities like Bombay, Calcutta, Delhi and Madras is not lower than cities like London and New York. Noise pollution is responsible for hypertension, fatigue, deafness, allergies, and loss of energy, loss in expectation of life. It is a slow agent of death. This Article uses the word “improvement of the environment” which covers all types of the pollution including the noise pollution.

In the Dehradun Quarries case\textsuperscript{13} the Supreme Court ordered the closure down illegally operating limestone quarries, which were destroying the ecology of the hills and disturbing the environment. The Supreme Court held that “Preservation of the environment and keeping in ecological balance unaffected is a task which not only governments but also every citizen must undertake. It is a social obligation and every citizen is reminded that it is his fundamental duty as enshrined in Article 51-A (g) of the Constitution”.

The true scope of Article 51A (g) has been explained by the Rajasthan High Court in \textit{L.K. Koolwal v. State}.\textsuperscript{14} The brief facts of this case were that the Municipal authority under the Rajasthan Municipalities Act, 1959, was charged with "Primary duty" to clean public streets, places and sewers and all spices, not being private property, which are open to the enjoyment of public, removing of noxious vegetation and all public nuisance, and to remove filth, rubbish, night soil, odour or any other noxious or offensive matter. The petitioner, Mr. L.K. Koolwal moved the High Court under Article 226 (writ jurisdiction) and highlighted that the Municipality has failed to discharge its "primary duty" resulting in the acute sanitation problem in Jaipur which is hazardous to the life of the citizens of Jaipur- The Rajasthan High Court allowed the petition and pointed out that "rights and duties co-exist". The Court directed the Municipality to remove dirt, filth, etc., from the city within the period of six months.

The 42\textsuperscript{nd} Amendment also made certain changes in the Seventh Schedule of the Constitution. In the Concurrent List after entry 17, entry 17-A was inserted which provided for 'forests'. Originally, 'forest' was a subject included in List II as entry 19. Since, there was no uniform policy followed by the State in respect of the protection of forests, this subject was transferred to Concurrent List. Now on this subject, the

\textsuperscript{14} A.I.R. 1988 Raj 2.
Parliament and the State legislatures both may make laws. The subject of protection of wild animals and birds has also been transferred from List II entry 20, and inserted in List III as entry 17-B. Further, the 42 Id Amendment Act, for the first time, introduced a new entry 20-A in List III. This deals with the population control and family planning. In fact, high population growth is mainly responsible for environmental pollution.

3.2.2 Part IX and Part IX-A

The Indian Constitution has pioneered in giving the Constitutional status to the problem of waste management in the country. The 73rd Amendment Act, 1992 has added a new Part IX to the Constitution consisting 16 Articles and new “Schedule Eleven”.

These articles provides for the constitution, election, duration, powers, responsibilities and duties of Panchayats Raj Institution in the Rural Areas. The Eleventh Schedule contains 29 subjects on which the Panchayats shall have administrative control.” Entry 23 of this schedule deals with Health and Sanitation. Thus, the management of waste is a part of the duty of Panchayats under the entry of Health and Sanitation.15

The 74th Amendment Act, 1992 added a new Part IX-A to the Constitution relating to Urban Local Bodies, which consist of 18 Articles 14 and new “Twelfth Schedule”. These articles provide for the constitution, composition, election, duration and duties of Municipalities. The Twelfth Schedule contains 18 subjects on which Municipalities shall exercise administrative control. Entry 6 of this schedule deals with Public Health, Sanitation Conservancy and Solid Waste Management.16

Local bodies including Municipal Corporations, Municipal Committees, Panchayats etc. are responsible for the management of waste. It is an obligatory duty of these bodies to arrange for the scientific processing and disposing of waste, yet sustainable solutions either of organic or inorganic waste remain untapped and unattended. As such the local self governments in India are responsible for the management of the waste in an environmentally accepted manner.

16 Id. at p. 778.
3.3 CRIMINAL LAWS AND SOLID WASTE MANAGEMENT

There are two major criminal laws dealing with solid waste management – (a) The Indian Penal Code (IPC), 1860; and (b) The Criminal Procedure Code, (Cr. PC) 1973.

3.3.1 The Indian Penal Code and Solid Waste Management

The Indian Penal Code of 1860 has dealt with solid waste management under Chapter XIV of offences affecting the public health, safety, convenience, decency and morals. Since, solid waste gives rise to various types of diseases and is dangerous to public health; it has been treated as 'public nuisance' and has been made punishable. But there is no direct section in the Code which deals with the problem of solid waste.

3.3.1.1 Public Nuisance

It is an offence, however, according to Section 268 of the Indian Penal Code, 1860, “A person is guilty of a public nuisance, who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage”.

Thus, nuisance means anything which causes inconvenience, annoyance or damage. It can be said that the nuisance which affects the public at large is called the public nuisance. The expression “public” means general public and not an individual. This was held by Madras High Court in Re; Vedagiri Perumal Naidu.

3.3.1.2 Negligent act likely to spread infection of disease dangerous to life

Section 269 of the Indian Penal Code, 1860 punishes any person who does any act which is likely to spread infectious diseases in the society. The infectious disease are small-pox plague and cholera etc. According to Section 269 of the Code.

“Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend...

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18 A.I.R. 1937 Mad. 130.
Neglignet act cannotes that such person must have knowledge that his action was likely to spread infectious disease. In *Krishnappa case*\(^1\) where a man was suffering from Cholera and was aware of its infectious nature, travelled by train without informing the railway authorities of his condition, it was held that he was responsible for spreading infection of Cholera.

### 3.3.1.3 Malignant act likely to spread infection of disease dangerous to life

If any person malignantly does any act which may spread the infection of any disease dangerous to life, he shall be punished. Section 270 of the Indian Penal Code, 1860 provides that whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description of a term which may extend to two years or with fine or with both. Thus, the expression “malignantly” denotes a deliberate intention to cause infection of any disease on the part of accused.

### 3.3.1.4 Fouling of water of public spring or reservoir

If a person voluntarily fouls the water of any public spring or reservoir, he shall liable to be punished under Section 277 of the Indian Penal Code, 1860. This section provides that whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to one thousand rupees or with both. There are three essential ingredients of this section which are required to be proved. These are:-

1. Voluntary fouling or corruption of water;
2. The water must be of public spring or reservoir; and
3. The water must be made unfit or less fit for public consumption or use.

### 3.3.1.5 Making atmosphere noxious to health

The making of atmosphere noxious to health and thereby affecting the health of the public at large. As provided under Section 278 of the Indian Penal Code. 1860

\(^1\) Krishnappa, (1883) 7 Mad. 276.
“whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees”.

In order words voluntary polluting the water to affect the health of general public would be sufficient to invoke Section 278 of the Indian Penal Code, 1860. It is treated as a public nuisance.

3.3.2 Code of Criminal Procedure, 1973

Section 133 to Section 143 of The Code of Criminal Procedure, 1973, deals with the subject concerning environment protection. Since, the Code of Criminal Procedure is, not a substantive law but it deals with the procedural aspect, and thus, it does not provide definition and meaning of the term public nuisance or private nuisance.

3.3.2.1 Removal of Public Nuisance

The Code of Criminal Procedure, 1973 does not deal with the cases of private nuisance. Such cases are to be referred to civil court for adjudication or order. However, Section 133 of the Code of Criminal Procedure, 1973 deals with cases of public nuisance, wherein the Magistrate is empowered to pass conditional order for removal of public nuisance. Section 133 of the Code reads as under:-

3.3.2.1.1 Conditional order for removal of nuisance.

Whenever a District Magistrate or a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as the thinks fit, considers-

(a) That any unlawful obstruction or nuisance should be removed from any public place or from any way, river, or channel which is or may be lawfully used by the public; or

(b) That the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or
(c) That the construction of any building, or the disposal of any substance, as is likely to occasion conflagration or explosion, should be prevented or stopped; or

(d) That any building, tent or structure or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or pass by, and that in consequence the removal, repair or support of such building, tent or structure or the removal or support of such tree, is necessary; or

(e) That any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or

(f) That any dangerous animal should be destroyed, confined or otherwise disposed of.

Such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation or owning or possessing such animal or tree within a time to be fixed in the order-

(i) To remove such obstruction or nuisance; or

(ii) To desist from carrying on or to remove or regulate in such manner as may be directed, such trade or occupation or to remove such goods or merchandise or to regulate the keeping thereof in such manner as may be directed; or

(iii) To prevent or stop the construction of such building or to alter the disposal of such substance; or

(iv) To remove, repair or support such building, tent or structure or to remove or support such trees; or

(v) To fence such tank, well excavation; or

(vi) To destroy, confine or dispose of such dangerous animal in the manner provided in the said order:

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order and show cause, in the manner hereinafter provided, why the order should not be made absolute.

By virtue of Section 133 of the Code of Criminal Procedure, 1973 the Magistrate is empowered to exercise its powers on receipt of a police report or other
report if any of the circumstances exists as cited above.

3.2.2.2 Scope of Section 133

The Apex Court had an occasion to consider the scope and applicability of Section 133 of the Code of Criminal Procedure, 1973 in case of Municipal Council, Ratlam v. Vardhicand & Others,\textsuperscript{20} according to the Court, where there existed a public nuisance in a locality due to open drain, heaps of dirt, pits and public excretions by human for want of lavatories and consequential breeding of mosquitoes, the Court may require the municipality under Section 133 of the Code and in view of Section 123 of the Municipalities Act to abate the nuisance by taking affirmative action on a time bound basis. When such an order was given the Municipality cannot take the plea that financial inability validly exonerated it from statutory liability. The Apex Court further held that the Code of Criminal procedure operates against statutory bodies and others regardless of the cash in their coffers, even as human rights under Part III of the Constitution of India 1950 have to be respected by the State regardless of budgetary provision.

3.4 THE ENVIRONMENT (PROTECTION) ACT, 1986

Environment (Protection) Act, 1986 was enacted under article 253 of the Constitution of India in the wake of Bhopal tragedy. The preamble of the Act sets out that the purpose of the Act is to implement the decisions made at the United Nations Conference on Human Environment held at Stockholm in June 1972, in which India had actively participated. The Environment (Protection) Act seeks to supplement the existing laws on control of pollution by enacting a general legislation for environmental protection and to fill the gaps in regulations relating to major environmental hazards. The Environment (Protection) Act (EPA) confers wide powers on the Central Government. Although Central and State Pollution Control Boards are subject to the control of government, the Water (Prevention and Control of Pollution) Act and Air (Prevention and Control of Pollution) Act do not make the Central Government the repository of wide powers. Furthermore, the objective of the Environment (Protection) Act is much wider in comparison to Water (Prevention and Control of Pollution) Act and Air (Prevention and Control of Pollution) Act.

EPA defines ‘environmental pollutant’, environment pollution ‘hazardous

\textsuperscript{20} A.I.R. 1980 SC 1622.
substances’, etc. The definitions are comprehensive, programmatic and scientifically sustainable. To pick up just two examples out of these, ‘environment’ is defined as inclusive of water, air and land, and the inter-relationship, which exists among them and human beings, as well as other living creatures, plants, micro-organisms and property ‘Environmental pollution’, is viewed, as the presence in the environment of any ‘environmental pollutant’ which, in turn, is defined as any solid, liquid, or gaseous substance, present in such concentration as may be, or tends to be injurious to environment.

The Central Government is empowered by EPA to take all such measures, as it deems necessary or expedient for the purpose of protecting and improving quality of the environmental pollution. The measures indicated are coordination of actions of state governments; planning and executive of nation-wide campaigns; laying down standards for the quality of environment; and for the emission and discharge of pollutants; restricting areas of industrial operations; laying down procedures for the prevention of accidents and for the handling of hazardous substances; examining manufacturing processes, materials and substances carrying out and sponsoring investigations; inspecting premises, plants, equipments etc. The powers envisaged also include the right to establish laboratories; collect and disseminate information; prepare manuals; codes or guides relating to the prevention of the pollution. The Central Government can also constitute an authority for the purpose of exercising and performing the powers and functions assigned to it under the Act. The Central Government is authorized to appoint officers21 with powers to close prohibit or regulate any industry, stop or regulate supply of electricity and water for non-compliance with the provisions of this Act.

The Act imposes specific obligations the contravention of which is made punishable. There is an express prohibition on discharging of emitting environmental pollutants in excess of standards as prescribed by the Central Government.22 The Act covers the case of accidental pollution also, and it says that any such accidental discharge of pollutants in excess of these standards must be reported to the Government immediately.23 The Act lays down detailed provisions concerning the powers of the officers appointed by the Central Government to enter the premises, examine and test

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21 Section 4
22 Section 7
23 Section 9
the equipment, industrial plants, relevant documents etc and to collect samples and to analyze the same. The punishment for the contravention of the provisions of the Act is more stringent, the maximum punishment prescribed imprisonment which may extend up to five years or fine which may extend up to one lakh rupees, or both, and an enhanced punishment is provided for in case of persistent contravention.

The Act has adopted a new stand with regard to the question of locus standi so that now even a citizen has the right to approach a Court, provided he has given notice of not less than 60 days of the alleged offence and of his intention to make a complaint to the Central Government or the competent authority. A special procedure can be prescribed for handling hazardous substances and no person can handle such substances except in accordance with procedure.

Further, the present Act sought to rectify one lacuna in the previous Act, i.e. Air Act 1981 and Water Act, 1974 with regard to the standing of an individual or collective body to sue the polluter. Under both the above enactments, the courts could not take cognizance of any offence except on a complaint made by or with the previous sanction in writing of the State Boards. Under the present Act, the Court may not take cognizance of any offence except on a complaint made by the Central Government or any authority or officer authorized in this behalf by the Government. An individual may make a complaint provides he has given a notice of not less than sixty days in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Central Government or the authority or officer as aforesaid.

Within Six months of the promulgation of EPA, the Central Government announced the Environment Protection Rules, 1986. These Rules lay down procedures for setting standards of emission discharge of environmental pollutants. The Rules also prescribe the parameters for the Central Government, in which it can issue orders of prohibition and restrictions on the location of industries and conducting of processes and operations in different areas. The Rules lay down procedure for taking samples, serving notice, submitting samples for analysis and submitting the laboratory report.

In brief, this Act sets the tone for the planning and execution of a nationwide programme for the abatement and control of environmental pollution.

\[24\] Section 10
\[25\] Section 15
\[26\] Section 19
3.5 THE MUNICIPAL SOLID WASTES (MANAGEMENT AND HANDLING) RULES, 2000

The Central Government in exercise of the powers conferred by sections 3, 6 and 25 of the Environment (Protection) Act, 1986 has enacted these Rules. These Rules have been enacted to regulate the management and handling of municipal solid wastes. These Rules came into force w.e.f. 03.10.2000. In all these are nine Rules and IV Schedules.

3.5.1 Scope and Application

These Rules apply to every municipal authority responsible for collection, segregation, storage, transportation, processing and disposal of municipal solid wastes.27

3.5.2 Definitions

Rule 3 deals with definitions. Some of the important definitions are given as under:

“Biodegradable Substance” means a substance that can be degraded by microorganisms.28

“Landfilling” means disposal of residual solid wastes on land in a facility designed with protective measures against pollution of ground water, surface water and air fugitive dust, wind-blown litter, bad odour, fire hazard, bird menace, pests or rodents, greenhouse gas emissions, slope instability and erosion.29

“Municipal Solid Waste” includes commercial and residential wastes generated in municipal or notified areas in either solid or semi-solid form excluding industrial hazardous wastes but excluding treated bio-medical wastes.30

“Processing” means the process by which solid wastes are transformed into new or recycled products.31

“Recycling” means the process of transforming segregated solid wastes into raw materials for producing new products, which may or may not be similar to the original products.

27 Rule 2
28 Rule 3 (iii)
29 Rule 3 (xi)
30 Rule 3 (xv)
31 Rule 3 (xviii)
products.32

“Vermicomposting” is a process of using earthworms for conversion of bio-degradable wastes into compost.33

3.5.3 Responsibility of the Municipal Authority to Implement these Rules

Rule 4 provides that every municipal authority shall, within the territorial area of the municipality, be responsible for the implementation of the provisions of these Rules. The municipal authority shall also be responsible, for any infrastructural development, for collection, storage, segregation, transportation, processing and disposal of municipal solid wastes.

The municipal authority or the operator of the facility shall make the application in the-prescribed form for grant of authorisation for setting up waste processing and disposal facility including landfills from the State Board or the Committee in order to comply with the implementation programme laid down in Schedule I of these Rules which is given as under:

Table – 14: Implementation Schedule (Schedule I)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Compliance Criteria</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Monitoring the performance of waste processing and disposal facilities.</td>
<td>Once in six months.</td>
</tr>
<tr>
<td>3.</td>
<td>Improvement of existing landfill sites as per provisions of these rules.</td>
<td>By 31.12.2001 or earlier.</td>
</tr>
<tr>
<td>4.</td>
<td>Identification of landfill sites for future use and making site(s) ready for operation.</td>
<td>By 31.12.2002 or earlier.</td>
</tr>
</tbody>
</table>

It is mandatory for the municipal authority to comply with these Rules as per the implementation schedule given above. Rule 4 further provides that the municipal authority shall furnish its annual report in the prescribed form-

32 Rule 3 (xxiii)
33 Rule 3 (xxxi)
(a) to the Secretary-in-charge of the Department of Urban Development of the concerned State or as the case may be of the Union Territory, in case of a metropolitan city; or

(b) to the District Magistrate or the Deputy Commissioner concerned in case of ‘all other towns and cities, with a copy to the State Board or the Committee on or before the 30th day of June every year.

3.5.4 Responsibility of the State Government and U.T. Administrations

Rule 5 provides that the Secretary Incharge of the Department of Urban Development of the concerned State or the Union Territory, as the case may be, shall have the overall responsibility for the enforcement of the provisions of these Rules in the metropolitan cities.

The District Magistrate or the Deputy Commissioner of the concerned district shall have the overall responsibility for the enforcement of the provisions of these Rules within the territorial limit of their jurisdiction.

3.5.5 Responsibility of the Central Pollution Control Board and the State Board or the Committees

Rule 6 provides that the State Board or the Committees shall monitor the compliance of the standards regarding ground water, ambient air, leachate quality and the compost quality including incineration standards as specified in the Schedules. The Central Pollution Control Board shall coordinate with the State Boards and Committees with particular reference to implementation and review of standards and guidelines and compilation of monitoring data.

3.5.6 Management of Municipal Solid Wastes

According to Rule 7 any municipal solid waste generated in a city or town shall be managed and handled in accordance with the compliance criteria and the procedure laid down in Schedule II of these Rules which is given as under:

3.5.6.1 Collection of Municipal Solid Wastes

Littering of municipal solid waste shall be prohibited in cities, towns and in urban areas notified by the State Governments. To prohibit littering and facilitate compliance, the following steps shall be taken by the municipal authority, namely:
(a) Organising house-to-house collection of municipal solid wastes through any of the methods, like community bin collection (central bin), house-to-house collection, collection on regular pre-informed timings and scheduling by using bell ringing of musical vehicle (without exceeding permissible noise levels);

(b) Devising collection of waste from slums and squatter areas or localities including hotels, restaurants, office complexes and commercial areas;

(c) Wastes from slaughter houses, meat and fish markets, fruits and vegetable markets, which are biodegradable in nature, shall be managed to make use of such wastes;

(d) Bio-medical wastes and industrial wastes shall not be mixed with municipal solid wastes and such wastes shall follow the rules separately specified for the purpose;

(e) Collected waste from residential and other areas shall be transferred to community bin by hand-driven containerised carts or other small vehicles;

(f) Horticultural and construction or demolition wastes or debris shall be separately collected and disposed of following proper norms. Similarly, wastes generated at dairies shall be regulated in accordance with the State laws;

(g) Waste (garbage, dry leaves) shall not be burnt;

(h) Stray animals shall not be allowed to move around waste storage facilities or at any other place in the city or town and shall be managed in accordance with the State laws.

The municipal authority shall notify waste collection schedule and the likely method to be adopted for public benefit in a city or town. It shall be the responsibility of generator of wastes to avoid littering and ensure delivery of wastes in accordance with the collection and segregation system to be notified by the municipal authority as stated above.

3.5.6.2 Segregation of Municipal Solid Wastes

In order to encourage the citizens, municipal authority shall organize awareness programmes for segregation of wastes and shall promote recycling or reuse of segregated materials. The municipal authority shall undertake phased programme to ensure community participation in waste segregation. For this purpose, the municipal authorities shall arrange regular meetings at quarterly intervals with representatives of local resident welfare associations and non-governmental organizations.
3.5.6.3 Storage of Municipal Solid Wastes

Municipal authorities shall establish and maintain storage facilities in such a manner as they do not create unhygienic and unsanitary conditions around it. Following criteria shall be taken into account while establishing and maintaining storage facilities, namely:-

(a) Storage facilities shall be created and established by taking into account quantities of waste generation in a given area and the population densities. A storage facility shall be so placed that it is accessible to users;

(b) Storage facilities to be set up by municipal authorities or any other agency shall be so designed that wastes stored are not exposed to open atmosphere and shall be aesthetically acceptable and user-friendly;

(c) Storage facilities or 'bins' shall have 'easy to operate' design for handling, transfer and transportation of waste. Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be painted white and those for storage of other wastes shall be painted black;

(d) Manual handling of waste shall be prohibited. If unavoidable due to constraints, manual handling shall be carried out under proper precaution with due care for safety of workers.

3.5.6.4 Transportation of Municipal Solid Waste

Vehicles used for transportation of wastes shall be covered. Waste should not be visible to public, nor exposed to open environment preventing their scattering. The following criteria shall be met, namely:-

(a) The storage facilities set up by municipal authorities shall be daily attended for clearing of wastes. The bins or containers wherever placed shall be cleaned before they start overflowing;

(b) Transportation vehicles shall be so designed that multiple handling of wastes, prior to final disposal, is avoided.

3.5.6.5 Processing of Municipal Solid Wastes

Municipal authorities shall adopt suitable technology or combination of such technologies to make use of wastes so as to minimize burden on landfill. Composting,
vermicomposting, anaerobic digestion or any other appropriate biological processing for stabilization of wastes shall process the biodegradable wastes.

3.5.6.6 Disposal of Municipal Solid Wastes

Land filling shall be restricted to non-biodegradable, inert waste and other waste that are not suitable either for recycling or for biological processing. Land filling shall also be carried out for residues of waste processing facilities as well as pre-processing rejects from waste processing facilities. Land filling of mixed waste shall be avoided unless the same is found unsuitable for waste processing. Under unavoidable circumstances or till installation of alternate facilities, landfilling shall be done following proper norms. Landfill sites shall meet the specifications as given in Schedule III.

The waste processing and disposal facilities to be set up by the municipal authority on their own or through an operator of a facility shall meet the specifications and standards as specified in Schedule III and Schedule IV.

3.5.7 Annual Reports

The State Boards and the Committees shall prepare and submit to the Central Pollution Control Board an annual report with regard to the implementation of these Rules by 15th of September every year in the prescribed form. The Central Pollution Control Board shall also prepare the consolidated annual review report on the management of solid wastes and forward it to the Central Government along with its recommendations before the 15th of December every year.34

3.5.8 Accident Reporting

Rule 9 provides that when an accident occurs at any municipal solid wastes collection, segregation, storage, processing, treatment and disposal facility or landfill site or during the transportation of such wastes, the municipal authority shall report the accident in the prescribed form to the Secretary Incharge of the Urban Development Department in metropolitan cities and to the District Collector or Deputy Commissioner in all other cases.

34 Rule 8
3.6 THE PUNJAB MUNICIPAL CORPORATION ACT, 1976

3.6.1 Obligatory functions of Corporation

It shall be incumbent on the Corporation to make adequate provision by any means or measures which it may lawfully use or take for each of the following matters, namely:

a) The construction, maintenance and cleaning of drains and drainage works and of public latrines, urinals and similar conveniences;

b) The construction and maintenance of works and means for providing supply of water for public and private purposes;

c) The scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters;

d) The reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

e) The regulation of places for the disposal of the dead and the provisions and maintenance of places for the said purpose;

f) The registration of births and deaths;

g) Public vaccination and inoculation;

h) Measures for preventing and checking the spread of dangerous diseases;

i) The construction and maintenance of municipal markets and slaughter-houses and the regulation of all markets and slaughter-houses;

j) The regulation and abatement of offensive or dangerous trades or practices;

k) The securing or removal of dangerous buildings and places;

l) The construction, maintenance, alteration and improvements of public streets, bridges, culverts, causeways and the like;

m) The lighting, watering and cleansing of public streets and other public places;

n) The removal of obstructions and projections in or upon streets, bridges and other public places;

o) The naming and numbering of streets and premises;

p) The maintenance of municipal offices;
q) The laying out or the maintenance of public parks, gardens or recreation grounds;

r) The maintenance of a fire-brigade and the protection of life and property in the case of fire;

s) The maintenance of monuments and memorials vested in a local authority in the City immediately before the commencement of this Act or which may be vested in the Corporation after such commencement:

t) The maintenance and development of the value of all properties vested in or entrusted to the management of the Corporation; and

u) The fulfilment of any other obligation imposed by or under this Act or any other law for the time being in force.

3.6.2 Discretionary functions of Corporation

The Corporation may in its discretion provide either wholly or in part for all or any of the following matters, namely :-

a) The furtherance of education including cultural and physical education;

b) The establishment and maintenance of and aid to libraries, museums, art galleries, botanical or zoological collections;

c) The establishment and maintenance of and aid to stadium, gymnasium, akharas and places for sports and games:

d) The planting and care of trees on road sides and elsewhere;

e) The surveys of buildings and lands:

f) The registration of marriages;

g) The taking of a census of population;

h) The civic reception to persons of distinction;

i) The providing of music or other entertainments in public places or places of public resort and the establishment of theatres and cinemas;

j) The organisation and management of fairs and exhibitions;

k) The acquisition of movable or immovable property for any of the purposes before mentioned, including payment of the cost of investigations, surveys or examinations in relation thereto for the construction or adaptation of buildings necessary for such purposes;

l) The construction and maintenance of rest-houses, poor-houses, infirmaries,
children's homes, houses for the deaf and dumb and for disabled and handicapped children, shelters for destitute and disabled persons, asylums for persons of unsound mind;
m) The construction and maintenance of cattle ponds;

n) The building or purchase and maintenance of dwelling houses for Corporation officers and other Corporation employees;
o) Any measures for the welfare of the Corporation officers and other Corporation employees or any class of them including the sanctioning of loans to such officers and employees or any class of them for construction of houses and purchase of vehicles:
p) The organisation or management of chemical or bacteriological laboratories for the examination or analysis of water, food and drugs for the detection of diseases or research connected with the public health or medical relief:
q) The provision for relief to destitute and disabled persons;
r) The establishment and maintenance of veterinary hospitals;
s) The organisation, construction, maintenance and management of swimming pools, public wash houses, bathing places and other institutions designed for the improvement of public health;
t) The organisation and management of farms and dairies within or without the City for the supply, distribution and processing of milk and milk products for the benefit of the residents of the City;
u) The organisation and management of cottage industries, handicraft centres and sales emporia; the construction and maintenance of warehouses and godowns:
v) The construction and maintenance of garages, sheds and stands for vehicles and cattle biers;
w) The provision for unfiltered water supply;
x) The improvement of the City in accordance with improvement schemes approved by the Corporation

3.6.3 Sanitation and Public Health

3.6.3.1 Provision for daily cleansing of streets and removal of rubbish and filth

For the purpose of securing the efficient scavenging and cleansing of all streets
and premises, the Commissioner shall provide:

(a) For the daily surface-cleansing of all streets and the removal of the sweepings therefrom, and

(b) For the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by him under the provisions of this Act for the temporary deposit of rubbish, filth and other polluted and obnoxious matter.

The Commissioner may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1) may be removed along a street or be deposited or otherwise disposed of.

3.6.3.2 Rubbish, etc. to be property of Corporation

All matter, deposited in public receptacles, depots and places provided or appointed under section 278 and all matters collected by Corporation employees or contractors in pursuance of section 276 and section 281 shall be the property of the Corporation.  

3.6.3.3 Provision for appointment of receptacles, depots and places for rubbish

The Commissioner shall -

a. Provide or appoint in proper and convenient situations, public receptacles, depots or places for the temporary deposit of rubbish, filth and other polluted and obnoxious matter and for the final disposal of rubbish, filth and other polluted and obnoxious matter; provide dustbins for the temporary deposit of rubbish;

b. Provide dustbins for the temporary deposit of rubbish:

c. Provide vehicles or other suitable means for the removal of rubbish and offensive matter; and

d. Provide covered vehicles or vessels for the removal of filth and other polluted and obnoxious matter.

Different receptacles, depots or places may be provided or appointed for the temporary deposit or final disposal of any of the matters specified in sub section (1).

36 Section 277
The commissioner shall make adequate provision for preventing receptacles, depots, places, dustbins, vehicles and vessels referred to in sub-section (I) from becoming sources of nuisance.

3.6.3.4 Duty of owners and occupiers to collect and deposit rubbish etc

It shall be the duty of the owners and occupiers of all premises

a) To have the premises swept and cleaned;

b) To cause all filth, rubbish and other polluted and obnoxious matter to be collected from their respective premises and to be deposited at such times as the Commissioner, by the public notice prescribes-, in public receptacles, depots or places provided or appointed under section 278 for temporary deposit or final disposal thereof;

c) To provide receptacles of the type and in the manner prescribed by the Commissioner for the collection therein of all filth, rubbish and other polluted and obnoxious matter from such premises and to keep such receptacles in good condition and repair.

3.6.3.5 Collection and removal of filth and polluted matter

It shall be duty of the owners and occupier of every premises situate in any portion of the City in which latrines or urinals are not connected by a drain with a municipal drain, to cause all filth and polluted and obnoxious matter accumulating upon such premises to be collected and removed to the nearest receptacle or depot provided for this purpose under section 278 at such times, in such vehicle or vessel, by such route and with such precautions as the Commissioner may by public notice prescribe.

3.6.3.6 Collection and removal of filth and polluted matter through Corporation agency

Where the Commissioner has given public notice in respect of any portion of the City that the collection, removal and disposal, of all filth and polluted and, obnoxious matter from latrines, urinals and cesspools will be undertaken by Corporation agency, it shall be lawful for the Commissioner to take measures for the daily collection, removal and disposal of such filth and polluted and obnoxious matter
from an premises situated in that portion of the City. In such portion of the City and in any premises wherever situate in which there is a latrine or urinal connected with a municipal drain, it shah not be lawful, except with the written permission of the Commissioner, for any person who is not employed by or on behalf of the Commissioner, to discharge any of the duties of scavengers. 39

3.6.3.7 Removal of rubbish, etc., accumulated on Premises used as factories, work-shops

The Commissioner may, if he thinks fit (a) by written notice require the owner or occupier of any premises used for carrying on any manufacture, trade or business or used as a factory, workshop, trade premises or market or in any way so that rubbish filth and other polluted and obnoxious matter are accumulated in large quantities, to collect all such rubbish, filth and other polluted and obnoxious matter accumulating thereon and to remove the same at such time and in such carts or receptacles and by such routes as may be specified in the notice to a depot or place provided or appointed under section 278, or after giving such owner or occupier notice of his intention cause all rubbish, filth and other polluted and obnoxious matter accumulated in such premises to be removed and charge the said owner or occupier for such removal such fee as may, with the sanction of the Corporation, be specified in the notice issued under clause (a) 40

3.6.3.8 Prohibition against accumulation of rubbish

No owner or occupier of any premises shall keep or allow to be kept for more than twenty- four hours or otherwise than in a receptacle approved by the Commissioner, any rubbish filth and other polluted and obnoxious matter on such premises or any place belonging thereto or neglect to employ proper means to remove such rubbish, filth and other polluted and obnoxious matter from, or to cleanse, such receptacle and to dispose of such rubbish, filth and other polluted and obnoxious matter in the manner directed by the Commissioner, or fail to comply with any requisition of the Commissioner as to the construction, repair, pavement or cleansing of any latrine, or urinal on or belonging to the premises. 41

No owner or occupier shall allow the water of any sink., drain, latrine or urinal or any rubbish, filth and other polluted and obnoxious matter to run down on or to, or

39 Section 281
40 Section 282
41 Section 283
be thrown or put upon, any street or into any drain in or along the side of any street except in such manner as shall prevent any avoidable nuisance from any such water, rubbish, filth or other polluted and obnoxious matter. No person shall, after due provision had been made in this respect under the foregoing provisions for the deposit and removal of the same -

a) Deposit any rubbish, filth and other polluted and obnoxious matter in any street or on the verandah of any building or on any unoccupied ground alongside any street or on the bank of a water course: or

b) Deposit any filth or other polluted and obnoxious matter in any dustbin or in any vehicle not intended for the removal of the same; or

c) Deposit rubbish in any vehicle or vessel intended for the removal of filth and other polluted and obnoxious matter.

3.6.3.9 Commissioner's power to get premises scavenged and cleansed

If any premises are not properly and regularly scavenged or cleansed or are in a filthy and unwholesome condition, the Commissioner may cause them to be scavenged and cleansed and recover the expenses from the owner or as the case may be, occupier as an arrears of tax under this Act.42

3.6.3.10 Public latrines, urinal

The Commissioner shall provide and maintain in proper and convenient places a sufficient number of public latrine and urinals. Such public latrines and urinals shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be provided with all necessary conservancy, establishments, and shall regularly be cleansed and kept in proper order.43

3.6.3.11 Constructions of latrines and urinals

It shall not be lawful to construct any latrine or urinal for any premises except with the written permission of the Commissioner and in accordance with such terms not inconsistent with the provisions of this Act or any bye-laws made there under as he may prescribe. In prescribing any such terms the Commissioner may determine in each case

42 Section 284
43 Section 285
a) whether the premises shall be served by the service system or by the flush system or partly by one and partly by the other; and 
b) what shall be the site or position of each latrine or urinal.

If any latrine or urinal is constructed on any premises in contravention of the foregoing provisions, the Commissioner may, after giving not less than ten days' notice to the owner or occupier of such premises, alter, reconstructed close or demolish such latrine or urinals and the expenditure incurred by the Commissioner in so doing shall be recoverable from the owner or occupier as an arrears of tax under this Act.44

3.7 THE PUNJAB PANCHAYATI RAJ ACT, 1994

This enactment is a comprehensive piece of legislation to establish a three – tier Panchayati Raj system in state of Punjab keeping in view the 73rd Amendment Act, 1992 of the constitution some of the functions of the Village Panchayat with the management of solid waste are highlighted below:

3.7.1 Functions of Gram Panchayats

Subject to such conditions as may be prescribed by the State Government from time to time, the Gram Panchayat having regard to the availability of funds at its disposal, shall perform the function specified below: -

3.7.1.1 General function -

(i) Preparation of annual plans for the development of the panchayat area;
(ii) Preparation of annual budget;
(iii) Mobilising reliefs in natural calamities including relief to the poor;
(iv) Removal or encroachments on public properties;
(v) Organizing voluntary labour and contribution for community works;
(vi) Maintenance of essential statistics of village;
(vii) Rendering assistance and implementation of development schemes pertaining to the village through its Gram Sabha;
(viii) Promotion of unity and harmony among all the sections of society in the village;

44 Section 286
3.7.1.2 Construction, repair and maintenance of community assets -

(a) Any public place including its sanitation and drains;
(b) Wells, water-pumps, baolies, springs, ponds and tanks for the supply of water for drinking, washing and bathing;
(c) Burial and cremation grounds;
(d) The lighting of public places;
(e) Buildings for the accommodation of travelers;
(f) Ponds for animals, cattle and sheds for cart, bicycle, rickshaw, and auto stand;
(g) Public gardens, playgrounds, establishment and maintenance of recreation parks, organization of games and sports, supply of sports materials and holding of tournaments;
(h) Libraries and reading-rooms;
(i) The construction, repair and maintenance of public places and buildings of public utility under its own control or transferred to it by the State Government or any other authority;
(j) Allotment of places for preparation and conservation of manure, and shifting them to far away places;
(k) Construction and maintenance of culverts and bridges; and slaughterhouses;
(l) The laying out of new roads and pathways and maintenance of existing ones;
(m) Supply of water for domestic use and for cattle;
(n) Community listening;
(o) Prevention and control of pollution;
(p) Maintenance of boats, ferries and all water ways;
(q) Promotion of family welfare and population control;
(r) Cleaning of public roads, drains, tanks, wells and other public places;
(s) Construction and maintenance of public latrines;
(t) Disposal of unclaimed corpses and carcasses;
(u) Management and control of washing and bathing ghats.

3.7.1.3 Social and Farm Forestry, Minor Forest Produce Fuel and Fodder -

(a) Planting and preservation of trees on the sides of roads and other public lands under its control;
(b) Fuel plantations and fodder development.
(c) Promotion of farm forestry;
(d) Development of social forestry.

3.7.1.4 Non-Conventional Energy Source

(a) Promotion and development of non-conventional energy schemes;
(b) Maintenance of community non-conventional energy devices, including bio-gas plants;
(c) Propagation of improved chulhas and other efficient energy devices.

3.7.1.5 Poverty Alleviation Programme -

(a) Promotion of public awareness and participation in poverty alleviation programmes for fuller employment and creation productive assets etc.;
(b) Selection of beneficiaries under various programmes through Gram Sabhas;
(c) Participation in effective implementation and monitoring.

3.7.1.6 Education including primary and secondary schools -

(a) Promotion of public awareness and participation in primary and secondary education;
(b) Ensuring full enrolment and attendance in primary schools and its management;
(c) Providing such educational facilities as may be deemed necessary and desirable.

3.7.1.7 Public Health and Family Welfare

(a) Implementation of family welfare and population control programmes;
(b) Prevention and remedial measures against epidemics;
(c) Regulation of sale of meat, fish and other perishable food articles;
(d) Participation in programmes of human and animal vaccination;
(e) Licensing of eating and entertainment establishments;
(f) Destruction of stray dogs;
(g) Regulation of curing, tanning and dyeing of skins and hides;
(h) Regulation of offensive and dangerous trades;

3.7.1.8 Women and Child Development

(a) Participation in the implementation of women and child welfare programmes;
(b) Promotion of school health and nutrition programmes;
(c) Establishment, maintenance and management of maternity and child welfare centres and the construction and repair of all buildings connected therewith;