CONCLUSION AND SUGGESTIONS

There is no doubt that environmental pollution problem has become one of the most burning issues of the present age and it extends to all corners of the universe. There is hardly any place on this earth which is free from pollution. Environmental pollution causes enormous disturbance in the society and creates obstruction in the smooth functioning of the ecological process in the environment and as a result, balance and stability of the environment in the atmosphere are disturbed. It may be mentioned here that Indian scenario is not quite different from the rest of the world. India has been also suffering from different types of pollution problems in different degrees. Here water pollution problem, air pollution problem, and noise pollution problem have become nightmare. In addition, various other pollution problems of various kinds have also been making the situation more complicated. Under these circumstances, it is very much necessary to give immediate attention to the environmental pollution problem.

At various International levels, initiatives have been taken for environment protection right from Pre-Charter period. Universal Declaration of Human Rights, 1948, as adopted by United Nations General Assembly, assures that every one has the right to enjoy a standard of living which is adequate for his health and well-being of his family. Subsequently during post-charter period, various International conventions, conferences and treaties, have been made under the supervision of the United Nations and various other International bodies to draw guidelines
for the protection of the environment. Various other measures have also been taken at International level in the form of resolutions, recommendations, standards, etc., for the protection of environment as an International legal control which was very much required for preventing pollution from the protective measures point of view. Ultimately such initiatives to protect the environment from pollution got proper shape in Stockholm Conference, 1972, where environment problems under modern regime have been explicitly formulated and recognised. It has been also recognised in the said conference that there is a basic human right of 'pollution free environment' and corresponding duty to protect every component of the environment.

After Stockholm, environment protection movement has been intensified at International level with new vigour and effort and ofcourse with new dimensions, due to development of the principle of 'Sustainable Development'. Ultimately, in Rio Conference¹, principle of sustainable development has been recognised as the basis of environment protection movement and finally this new approach has been internationally established as a viable legal principle for environment protection at Johannesburg World Summit on Sustainable Development (WSSD), 2002.

All these International measures helped in developing legal control for environment protection at different National level in various countries. In this regard, Indian scenario is not quite different from other countries. Along with both historical and modern International legal regimes, which are for the environment protection, common law principles, based on the English customery law, had also a significant role in developing

environmental jurisprudence in India, although by no means these are the only sources from which India has derived its ethos and philosophy of environment protection.

There was an age-old tradition of earnest desire for the protection of environment and preservation of natural resources under both historical and religious perspective in India. Different rulers, political thinkers, economists and intellectuals were very much keen in taking effective measures in protecting environment and preserving natural resources, since ancient times. In addition, religious and cultural tradition of India are also of high value in respect of environment protection. Not a single religious and spiritual thought and belief, prevailed in India, which justified destructive attitude towards environment and ecology, rather they played a vital role in environment protection movement. Ultimately this concept of ecology and environment protection under historical and religious perspective helped in developing a legal philosophy for the protection and preservation of environment in India.

But due to the development of Science and Technology in modern era, specially from nineteenth century onwards, environmental pollution problem began to rise in India. In this situation, need for developing new effective legal thought and strategies, including enactment of laws for environment protection, was felt. To meet these needs, various legal sanctions for environment protection have come into existence in the form of legislations during pre-independence period and such legislative process has continued even after independence. But, none of those enactments, which was made either during pre-independence period or early phase of post-independence period, is comprehensive. Ultimately responding to
the urgent need for enacting comprehensive and total environmental legislation and to fulfil the obligation to implement the resolution of Stockholm Conference under the prevailing international perspective. India has accelerated its legislative activities immediately after 'Stockholm Conference' in 1972.

After Stockholm Conference, specific and comprehensive legislation on water pollution, air pollution, and general environment protection have been enacted. Even the Constitution of India has been amended in 1976 by the 42nd Amendment Act\textsuperscript{2} to incorporate the provisions regarding environment protection and preservation of Natural Resources. It may be mentioned here that during post Stockholm period, not only the legislative activities but also constitutional amendment process have been intensified aiming to protect the environment and preserve nature.

Though after Stockholm conference, many initiatives have been taken in India in the form of various legislations with a view to meeting the growing challenges regarding environmental pollution problems, there is no sign of respite or decrease in the intensity of the pollution in Environment, rather pollution problem in India has been worsening day by day. Here it may be mentioned that to give fruitful and effective result to those legislations for controlling environmental pollution, proper and strict implementation of those legislative provisions by the implementing authorities is essential. But it is very unfortunate that due to lack of proper and effective implementation of the legislative mandate by the implementing authorities, immense growth of environmental pollution still remains unabated in India and the people of this country have been also

\textsuperscript{2} The Constitution (42nd Amendment) Act, 1976.
suffering from the hazardous effect of such environmental pollution problem.

Having realised the gravity of the environmental pollution problem in the country, there was no other option than judicial intervention to protect the quality of environment and to check its alarming degradation. Ultimately Indian judiciary rose to the occasion with its landmark decisions, because it can not turn a Nelson's eye, while statutory obligations are not properly discharged by the administrative agencies. Actually when there is an assault on environment due to adverse socio-economic policies of the state authorities, courts can not sit with their eyes closed and they have to give a meaningful effect to the constitutional mandate of environment protection by effective judicial intervention through their activist role which manifests a philosophy and a method used by the Judges to protect and promote values that the constitution is believed to represent.

Under these circumstances, in the present research work, the researcher has tried to find out how the Indian Judiciary has been playing its activist role in developing new environmental jurisprudence in India to control the pollution problems and also tried to focus its impact upon the society from socio-economic perspective alongwith its critical evaluation.

In the early 1980s, Indian Judicial system has gone through immense change, specially in judicial approach towards the environment related issues, due to advent of judicial activism. The concept of judicial activism had begun in United States of America (USA) with the famous case, Marbury Vs. Madison\(^3\). This particular case had established the scope of judicial review of congressional Legislation. There are certain other

\(^3\) 5 U.S. (1) Cranch 137, 2 L.Ed. 60 (1803).
decisions of USA Supreme Court where judicial activism has been exercised, such as Dred Scott Vs. Sanford\textsuperscript{4}; Lochner Vs. New York\textsuperscript{5}; Schechter Poultry Corp. Vs. United States\textsuperscript{6}; etc.

Being influenced by the activist role of USA Supreme Court and also being sensitive to the need of the weaker sections and downtrodden and traditionally oppressed classes of the society, Indian Judiciary has brought revolutionary change in the litigation landscape by introducing new legal thought and philosophy in India right from Rathlam Municipal Council Case\textsuperscript{7} and this change has unveiled the gateway of new expanded horizon of socio-economic justice for the common people in the society.

This new development has been explicitly expressed in various other cases, such as, People's Union for Democratic Rights and other vs. Union of India & Others, popularly known as Asiad Case\textsuperscript{8}; S.P. Gupta Case (Judge's Transfer Case)\textsuperscript{9}; Nakara Case\textsuperscript{10}; Bandhua Mukti Morcha Case\textsuperscript{11}, etc. In all these cases newly introduced judicial approach regarding concept of 'Locus Standi' has been expressed in liberal way.

In this way, strict rule of locus standi has been modified and liberal rule of locus standi has come into force in Indian adjudication system. As a result, traditional concept of bipolar litigation or adversary type of litigation has been supplemented by the Social Action Litigation and the Public Interest Litigation under new changing scenario of the adjudication system in India.

\textsuperscript{4} 60 U.S. (19) How. 393, 15L. Ed. 691 (1856)
\textsuperscript{5} 198 U.S. 45, 25 S.Ct. 539, 49 L.Ed. 937 (1905).
\textsuperscript{6} 295 U.S. 495, 55, S.Ct. 837, 79 L.Ed. 1570 (1935).
\textsuperscript{7} Municipal Council, Rathlam vs. Vardichand, AIR 1980 S.C. 1622.
\textsuperscript{8} AIR 1982 S.C. 1473.
\textsuperscript{9} S. P. Gupta and Others vs. President of India and Others, AIR 1982 S.C. 149.
\textsuperscript{10} D.S. Nakara and Others Vs. Union of India, AIR 1983 S.C. 130.
\textsuperscript{11} Bandhua Mukti Morcha vs. Union of India and others, AIR 1984 S.C. 802.
It may be stated here that the concept of public interest litigation was brought into existence in the United States of America and there it is known under the name and style 'Public Interest Law'. Actually it has come into existence by liberalising rule of locus standi as it has been witnessed in a case, *Sierra Club vs. Morton*\(^{12}\). It has been also witnessed in *Duke Power Co. vs. Caroline Environment Study Group*\(^{13}\), including various other cases.

The doctrine of 'Locus Standi' has been also liberalised in England and Lord Denning is regarded as the main architect behind such liberalisation process. In 1957, in *R. vs. Thomas Magistrate's Court, ex parte Greenbaum*\(^ {14}\), Lord Denning has for the first time departed from the traditional concept of Locus Standi. Again in *R. Vs. Paddington Valuation Officer, exparte Peachey Property Corpn. Ltd.*\(^ {15}\) it has been followed. Like Lord Denning, name of Mr. Blackburn, a public spirited person, who often came to the court with a case involving certain public interests, cannot be ignored. One of such cases, where Blackburn acted as a public spirited advocate and in which traditional rule of locus standi has been liberalised, is — *R. vs. Commissioner of Police of the Metropolis, ex parte Blackburn*\(^ {16}\).

Being inspired by the latest development in adjudication system in U.S.A., as well as in U.K., the seed of the concept of Public Interest Litigation was initially sown in India by Justice Krishna Iyer without using the terminology of the 'Public Interest Litigation' in the case of *Mumbai Kamgar Sabha vs. Abdulbhai and Others*\(^ {17}\). But in *Fertilizer Corporation...*
the terminology "Public Interest Litigation" has been used by the Hon'ble Mr. Justice Krishna Iyer for the first time in the history of Indian Judiciary. Ultimately this concept of Public Interest Litigation has taken its root firmly in the soil of Indian Judiciary and fully blossomed with fragrance in the case of S. P. Gupta and Others vs. President of India and others, popularly known as 'Judge's Transfer case'.

Ultimately to protect environment and to control the environmental pollution and to maintain ecological balance, Indian Judiciary, has started to consider the environmental issues beyond the scope of Tortious act and they began to invoke the mechanism of Public Interest Litigation through its inherent and equitable power of Writ jurisdiction to dissolve the disputes arising out of environmental issues.

In this regard, first remarkable environment related case, came up before the Supreme Court as Public Interest Litigation, is Rural Litigation and Entitlement Kendra, Dehradun and Others Vs. State of U.P. and Others, popularly known as Doon Valley case. The next remarkable Public Interest Litigation, decided by the Supreme Court under the Writ jurisdiction is 'Shriram 'Foods and Fertilizer case' or 'Oleum Gas Case' where principle of absolute liability has been established as an indigenous rule to pay compensation to the pollution victim. Gradually the scope of public interest litigation has been enlarged in environment related case. In Chetriya Pradushan Mukti Sangharsh Samiti vs. State of U.P. and others, Supreme Court has entertained even a letter as a Writ Petition in

public interest going beyond the four corners of the procedural compulsion.

Immediately before retirement, Justice Kuldip Singh delivered one of his landmark Judgements in the *Taj Trapezium (TTZ) Case*²³. In this public interest litigation, Supreme Court has tried to resolve the pollution problem in the surrounding area of Taj Mahal from a different angle. Here Supreme Court has invoked "The precautionary principle" and "The Polluter pays Principle" within the purview of Constitutional mandates.

This activist role of Indian Judiciary has gradually become more and more powerful regarding environmental issues under the domain of Public Law and *Delhi Transport Case (M.C. Mehta Vs. Union of India and Others)*²⁴ is one of such cases where such trend of Judiciary has been established.

In this way public interest litigation has emerged in the Indian legal system as an effective means to deal with different environmental issues having its various social significances. But here, one thing must always be taken into consideration that to maintain the quality of this precious weapon of Indian legal system, it should be used with great care and caution, so that it may not be abused by the politically motivated, vested interested persons. In this regard decision of *Gauhati Case (Pranotosh Roy and Others vs. State of Assam and Others)*²⁵, based on Supreme Court Guide lines in entertaining letters / petitions as public interest litigation, is the best example to show how to entertain a public interest litigation.

In order to protect life and basic components of the environment, in various public interest litigations, both the Supreme Court, as well as the

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²⁵. AIR 2000 Gauhati 33.
state High Courts have enlarged the provision of right to life under the Article 21 of the Constitution of India upto right to live in pollution free environment.

*Rural Litigation and Entitlement Kendra and others Vs. State of U.P. and Others* is the first environment case where the Supreme Court had invoked the 'right to life' as guaranted under the Article 21 of the Constitution of India in an extended way. In this case, by giving order of closure of lime stone quarries with emphasis on the necessities to protect the environment from its degradation, the Supreme Court has actually helped to extend the scope of 'right to life' into the right to live in pollution free environment indirectly without specifically mentioning of the provision of Article 21 of the constitution of India.

In one *M.C. Mehta case (M.C. Mehta vs. Union of India and others)*, which is popularly known as 'Ganga Pollution (Tanneries) case', though there was no direct reference of 'right to life', but Hon'ble Mr. Justice, Kuldeep N. Singh, had been pleased to observe that life, health and ecology had greater importance than unemployment and loss of revenue arising out of closure of tanneries and this observation undoubtedly attracts the 'right to life' within the meaning of Article 21 of the Constitution of India.

In *Vellore Citizen's Welfare Forum Case*, Supreme Court has interpreted the provision of Article 21 of the constitution in a new dimension. In this case, 'right to life' has been considered under the perspective of precautionary principle and polluterpays principle, the fundamentals of

26. See the note supra 20.
the concept of 'Sustainable Development'. Almost in the similar way in *Taz Trapezium (TTZ) case*\(^{29}\), Article 21 has been interpreted and invoked.

Like Supreme Court, various state High Courts have also interpreted 'right to life' as provided under Article 21 of the Constitution of India in extended and enlarged manner. In this regard one example is *T. Damodhar Rao and Others Vs. Special Officer, Municipal Corporation of Hyderabad*\(^{30}\), where right to life has been recognised as a part of right to environment. In *L. K. Koolwal vs. State of Rajasthan and others*\(^{31}\), Article 21 has been interpreted in such extended manner that maintenance of health, preservation of the sanitation and environment falls within the purview of Article 21 of the Constitution of India. In another, case, in *A Thangal Vs. Union of India*\(^{32}\), 'right fo life' as guaranteed under Article 21 of the Constitution of India, has been extended as right to have an 'environment of quality'.

So in this way, coming out from four corners of statutory and procedural compulsion, Indian Judiciary has been extending the scope of 'right to life' as guaranteed under Article 21 of the Constitution of India.

Initially Indian Judiciary had been very much concerned about the environment protection in its strict sense to protect the environment and to maintain the ecological balance at any cost, even at the cost of unemployment, loss of revenue of the state, as it appears from the *Ganga Pollution (Kanpur Tanneries) case*\(^{33}\). Almost similar view had been taken by the Supreme Court in *Delhi Industries Pollution Case*\(^{33A}\), wherein

\(^{29}\) See the note supra 23.
\(^{30}\) AIR 1987 A.P. 171.
\(^{31}\) AIR 1988 Raj. 2.
\(^{32}\) 1990 KLT, 580.
\(^{33}\) M.C. Mehta vs. Union of India and Others, AIR 1988 S.C. 1037.
\(^{33A}\) M.C. Mehta vs. Union of India and Others, AIR 1996 S.C. 2231.
Supreme Court had issued unconditional closure order for certain categories of industries located at Delhi without considering the far reaching effect from socio-economic point of view on the workmen engaged to those industries either directly or indirectly in the absence of any specific rehabilitation scheme for the workmen who might loose their job due to such closure order.

Gradually this strict judicial notion of environment protection has been changed into a new liberal judicial approach to tackle the environmental issues from development point of view and as such, Indian Judiciary has begun to consider not only the environment protection aspect but also the development aspect of the society in view of the development of sustainable world economy attributable specially to the developing countries, like India. In this regard, *Chhetriya Pradushan Mukti Sangharsh Samiti's case* 34, is one of the notable earliest decisions where Supreme Court explicitly introduced this concept of sustainable development to deal with environmental issues under Indian perspective in following words:

"It is necessary to recognise the danger in order to strike a balance between the quality of life to be preserved and the economic development to be encouraged"

Actually the seed of this concept of sustainable development has been sown in *Doon Valley Case* 35. In this regard 'Oleum Gas Case' or 'Shriram Food and Fertilizer Industries Case' 36 may be also referred here since the concept of sustainable development has been invoked by

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34. See the Note Supra 22.
35. See the Note Supra 20.
36. See the Note Supra 21.
the Supreme Court indirectly in this case like 'Doon Valley Case'.

In another case, Sri Sachidanand Pandey and another Vs. The State of West Bengal and others\textsuperscript{37}, popularly known as Taj Bengal Case, Supreme Court has invoked the concept of sustainable development. Here Supreme Court has encouraged the development process in connection with the construction of a Five Star Hotel. In deciding another case, Dhanu Taluka Environment Protection Group vs. Bombay Suburban Electricity Supply Company Ltd.\textsuperscript{38} case, Supreme Court has applied the principle of sustainable Development considering the necessities of establishing thermal power plant in Maharastra.

Ultimately, in People United for Better Living in Calcutta Public and another vs. State of West Bengal and others\textsuperscript{39}, popularly known as East Calcutta Wet Land case, the concept of sustainable development has been invoked by the Indian Judiciary in a classical way to maintain proper balance between the protection of environment and the development process.

In one M.C. Mehta Case (M.C. Mehta vs. Union of India and Others)\textsuperscript{40}, popularly known as Hot Mix Plant Case, Supreme Court has also invoked the concept of sustainable development and same thing has been also happened in Narmada Bachao Case (Narmada Bachao Andolan, etc. etc. vs. Union of India & Others)\textsuperscript{41}, where development process has been given priority. Later on, in Goa Foundation, Goa vs. Diksha Holdings Pvt. Ltd. and others\textsuperscript{42}, Supreme Court had tried to strike a balance between development activities and protection of environment.

\textsuperscript{37} AIR 1987 S.C. 1109.
\textsuperscript{38} 1991 (2) SCC 539.
\textsuperscript{39} AIR 1993 Cal. 215.
\textsuperscript{40} AIR 1999 S.C. 2367.
\textsuperscript{41} AIR 2000 S.C. 3751.
\textsuperscript{42} AIR 2001 S.C. 184.
So in this way, Indian judiciary has played an effective role by introducing the concept of sustainable development in Indian legal system to deal with environmental maladies under present socio-economic scenario which is very much attributable to the developing economy of the country, like India.

Gradually this principle has become the inseparable part of the Indian adjudication system to resolve the environmental disputes with this notion that the traditional concept of adversary relationship between development and ecology is no longer acceptable and sustainable development will be the answer in the present socio-economic perspective of the society in this country.

But inspite of adopting and invoking the concept of sustainable development in resolving the legal disputes in connection with the environmental issues, the justice delivery system in environmental matters involving immense socio-economic obligations can not be considered as free from any loophole. If it is scanned carefully, certain loopholes are detected and such loopholes are definitely stumbling blocks in the smooth functioning of the activist role of Indian Judiciary in dealing with the environmental issues.

After careful examination of some judicial pronouncements in certain cases dealing with environmental issues, it appears that in such cases, socio-economic justice could not be extended in its full length to those persons who are in disadvantaged condition in the society from socio-economic point of view.

In *Ganga Pollution (Kanpur Tanneries) Case*\(^43\), while delivering its

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\(^{43}\) M.C. Mehta vs. Union of India, AIR 1988 S.C. 1037.
Judgement, Supreme Court has given greater importance to environment protection than other thing, like unemployment and loss of revenue. But it may be mentioned here that only pollution free environment can not help the people, who are in disadvantageous condition, to sustain in the society without any means of livelihood, since they are out of employment and not provided with any kind of socio-economic security rendered by the State Agencies.

Similarly in Delhi Industries Pollution Case\textsuperscript{43A}, Supreme Court has given emphasis on the paramount interest of the environment protection and in the light of such consideration, Supreme Court had issued an unconditional closure order for one hundred sixty eight industries listed as hazardous / noxious / heavy / large industries and falling in 'H' Category under the Master Plan, as approved and placed by the Central Government in this case, with effect from 30th November, 1996, irrespective of the fact that they might not complete their realocation process within that period. Ultimately by that order of the Supreme Court, all of these one hundred sixty eight industries were closed down without proper arrangement of any kind of socio-economic security for the workmen who had been engaged either directly or indirectly to those units either by the employers of those workmen or by the State Authorities, though the Supreme Court had given direction in this regard.

In recent past, in \textit{Calcutta Tannery case}\textsuperscript{44}, Supreme Court had issued certain directions regarding shifting of all the Tanneries, situated at Tangra, Tiljala, Topsia and Pagla Danga, the four adjoining areas in the eastern fringe of Kolkata, to a new place to be allocated by the State Government.

\textsuperscript{43A} M.C. Mehta vs. Union of India, \textit{AIR} 1996 S.C. 2231.
\textsuperscript{44} M.C. Mehta vs. Union of India and others, \textit{(1997)2 S.C.C.} 411.
to stop pollution in the city caused by tannery industry. As per this direction, the tanneries, which would fail to relocate their units at newly allocated place, shall stop functioning on and from the stipulated date and in addition, the State Government shall stop all the necessary supply of essential services, like water, electricity, etc., to those units, which had neither shifted nor stopped functioning in their original place, for making forceful closure of those tanneries. Ultimately such order has been executed by the Government without providing suitable alternative arrangements. As a result, the tannery industries in Calcutta had suffered a serious set back and the people attached to this industry, specially the workmen had suffered a tremendous hardship by loosing their job either for ever or for a considerable period in between closure and relocation of the unit in newly allocated place. Though the Supreme Court had given direction to compensate the workmen by their employers, but in reality it has not been properly done.

Recently in Delhi Transport Case\textsuperscript{45}, Supreme Court has delivered its Judgement without foreseeing its impact upon the society. Here all the Non-condenced Natural Gas (CNG) fuelled bus, both private and Government operted, had been directed to stop running in Delhi unless they changed their system from Non-CNG to CNG within a very short period of time to control the vehicular pollution in Delhi. Under the compelling circumstances, after execution of this direction of the Supreme Court, life in Delhi became totally paralised. Office going people had to face a very difficult situation, since large number of public transport were off the road for a considerable period and the school going children become the worst sufferers. Ultimately, Supreme Court had modified its

\textsuperscript{45} M.C. Mehta vs. Union of India and others, AIR 1998 S.C. 2963.
earlier order to alleviate the hardship of the common people by making further extension of the period of conversion of fuel system of the vehicle running in Delhi. But further possibility of emergence of such Chaotic condition had not been totally mitigated, since actual problem, like non availability of fund, lack of necessary supply of raw materials, insufficient CNG fuel in the market had remained unchanged even during that extended period.

In all these cases, instead of giving relief to the common people from their hardships, judicial pronouncement has put the common people into more distressed condition from socio-economic point of view and such thing is definitely not in conformity with the sustainable approach as prevailed in most of the contemporary Judicial pronouncements in India.

In addition, in some cases, it appears that due to financial incapability of the operators and due to lack of financial support from State authority in suitable manner for modifications of the operation system or for the relocation of unit to minimise the pollution problem as per judicial order, operators are often compelled to violate the court's order or show little interest in complying with the court's order, as it has happened in case of Delhi Transport Case\textsuperscript{46} and also in Calcutta Tanneries Case\textsuperscript{47}. As a result, pollution problems remained unchanged in all those cases.

Besides, there are also certain other cases where it appears that court's orders are being flouted intentionally and deliberately not only by the private individuals, but also by the State agencies. For example, many private operators or in some cases, Government run industrial units do not show their honest effort and desire to change their operating system.

\textsuperscript{46} AIR 1998 S.C. 2963.  
\textsuperscript{47} 1997 (2) S.C.C. 411.
with the help of new technology for minimising the pollution level, as per the order of the court. In addition, State authorities, who are directed to enforce such judicial order, also offenly show their indifferent attitude in enforcing such orders of the court for mitigating the pollution problems. As a result, pollution problem remains unabated. In this regard, one glaring example is Delhi Transport Case. In this case, initially Private Bus Operators, as well as Government Transport Department i.e. Delhi Transport Corporation (DTC) were very much relactant to comply with the Courts order for the considerable period. Ultimately Supreme Court passed some stringent Directions for the compliance of its earlier orders relating to this case. Actually in all these cases, judiciary has very little scope to do under the present legal system in India, due to lack of specific stringent legal provisions against any contemptuous act of either any private individual or state Agencies. For that reason, Judiciary has no other option than to give some more stringent directions to stop pollution in all those cases, irrespective of the fact that such direction may increase suffering to the substantial number of the people living in the society from socio-economic point of view. As a result, situation become more and more complex in all respect, specially in connection with the socio-economic aspect in the society.

So these are certain problem areas which have been creating some negative impacts on the success of the newly developed environmental jurisprudence in India emerged due to the activist role of Indian judiciary and as a result, conquest of judicial activism aiming at providing socio-economic justice to the common people, specially to those who belong to the poor, downtrodden and the vulnerable section of the society, have been tarnished in its true sence, in the event of preventing, controlling
and abating the pollution problems in India.

Until and unless, above mentioned loopholes are overcome, it is not possible to achieve success in this particular field. So, to make the aforesaid 'Activist Role' of Indian Judiciary more effective and meaningful in dispensing environmental justice in India within the perview of sustainable socio-economic regime, following suggestions may be considered for implementations.

Firstly, Judiciary has to be more strict regarding proper compliance with its orders within stipulated time, otherwise mere passing such orders, will hardly serve any purpose. So, for the strict compliance of the Court's order, Judiciary should be more strict and firm and it should take stern action and give maximum punishment in case of deliberate and wilful violation and disobedience of the solemn orders of the Court to avoid future complication in controlling environmental pollution. In this regard, the Contempt of Courts Act, 1971, should be amended to introduce effective stringent punishment, specially compulsory imprisonment and imposing exemplary cost for the willful and deliberate violation of the Court's order.

To maintain proper environmental order, judiciary should strictly impose the 'polluter pays principle' for the payment of damages by the industrial units, either run by the private individuals or the State agencies against the damage and injury as sustained by the environment and its inhabitants and that payment must be proportionate to the damage and injury sustained and it should be awarded as per the suggestion of the technical persons and experts in this field, as to be engaged by the court and if such damages are not paid in time as per order of the court, the operators of such units...
should face stringent consequences for such contemptuous act.

In addition, court may hold the state authority, specially the Pollution Control Board, both Central and State Pollution Control Board, as the case may be, liable as an effective machinery to monitor the entire process of compliance of any direction or order passed by the Court to control the pollution problem and as a result, in case of failure to comply the court's order, either by any private individual or the state itself, pollution control board should be accountable to the court for such event and have to face the consequence of it.

To hold such authorities accountable to the Court for the compliance of Court's Order, it should be the condition precedent in filing any kind of litigation regarding environmental disputes either in the nature of Writ Petition filed in the State High Courts under Article 226 of the Constitution of India or in the Supreme Court under Article 32 of the Constitution of India or in the nature of any ordinary litigation other than writ petition filed in Tribunal or in any other court, having competent jurisdiction, that such State Authorities, specially the Pollution Control Board, should be made party mandetarily in such litigation as a necessary party. For this reason, procedural rules of each and every High Court in connection with the Application under Article 226 of the constitution of India and the Supreme Court Rules and various other procedural rules applicable to the Tribunals and other quasi-judicial Forum may be amended and in the absence of any such rules, that may be framed.

Development of public awareness and enlightenment of the society, regarding environment protection is urgently needed, because without
educating the common people and making them conscious regarding their legal rights and interests, they can not take active part in the mission of enviornment protection and all the judicial efforts for the protection of the environment will not yield the desired result.

In this regard, mass media campaign through print media and electronic media is necessary by the state agencies, specially by the Ministry of Environment, Ministry of Information and Broadcasting and ofcourse by the Polution Control Board, both Central and State Pollution Control Board. They should also regularly publish and update various statistical data regarding environment and pollution and also publish different journals and manuals regarding various restrictions and standards of emission and disposal of sewage, so that common people may be well aware of all those things and their activities may be restricted and ultimately it will help to mitigate the pollution problem.

Here another thing may be suggested that all the concerned Government agencies should strictly implement various existing rules, regulations and standards regarding discharge and emission in order to minimise their contribution to pollution. As a result, judiciary may be released of the enormous burden of litigation arising out of pollution and ultimately it will help in dispensing social justice effectively.

It may be suggested here that country and town planers should be well aware of the imperative need for preservation of greenery in urban area, otherwise it will be a ecological disaster in the urban environment under the tremendous pressure of urbanisation in the developing country, like India. In this regard concerned state agencies should also come
forward with proper and effective policies and if it is required, a suitable legislation can be also enacted. If this aspect of urbanisation is not controlled properly, nothing will remain for judicial intervention within the massive and expansive concrete construction all around.

Here another thing may also be considered. Non Governmental Organisations (NGOs) should also come forward with their resources for public awareness against environmental pollution. They should generate public opinion against the danger of causing pollution and also enlighten people to obey and comply with the court orders aiming at controlling pollution problems.

Educational Institutions, like schools, collages, and universities should also come forward to educate the people about the necessity of environment protection and preservation of Natural resources, not only for the benefit of the present generation but also for the future generations. Students of these Educational Institutions should organise camp, seminars and workshops by which people become conscious about environment and its preservation, including protection of human health and hygiene from the deadly effect of pollution in the atmosphere. Over and above awareness should be ingrained in the children from very beginning of their school life by imparting environmental education properly and effectively, because they are nature's soldiers of the future who will fight against the environmental degradation and maladies. Ultimately it will help the Judiciary in dispensing environmental justice more effectively and meaningfully and it will also help to reduce the agony of the Judiciary regarding enforcement of its judicial pronouncements aiming at resolving environmental disputes.
Scientists and technologists are also required to come forward with their scientific inventions and with modern technology which may be used and applied for protection of environment and preservation of natural resources in sustainable manner and in this regard, state agencies should support and if it is required, should sponsor such scientific research and technological development either by supplying necessary raw materials in subsidised rate or making financial support through the Government financial institutions with easy terms of repayment by relaxing Government rules and regulations in connection with the Government Financial Institution. In this regard, Judicial pronouncement for environment protection should be made keeping harmony with the modern trend and tendency of such Scientific research and invention and technological development for the purpose of playing a more effective and meaningful activist role.

In administering social justice to the common people, another thing should be taken into consideration. Poor workmen, specially working under small entrepreneurs or operators, who will loose their jobs either permanently or temporarily due to closure of their units by Court's order for controlling the environmental pollution under compelling circumstances, should be covered under the effective Insurance Policy for which, both their employers, as well as the State authority, should bear the financial liability, so that being retrenched either permanently or even for a temporary period, those poor workmen would not face the extreme hardships to maintain their means of subsistence and it should be recognised by the enactment of proper and effective Central Legislation. But until such legislation is passed the court should take this responsibility upon themselves in the interest of dispensing social justice.
Here it may be suggested that while enacting laws in this regard legislatures should be very careful, so that unnecessary financial burden should not be thurst upon the operators and here they may be provided with certain exemptions in which they may be relieved of any financial liability from making payment of insurance policy. For example, initial 5 years from the date of installation of the units treating it as a Nursing period may be exempted from payment and if their conduct in operating their units is satisfactory from pollution point of view in terms of rules and regulations and standards of discharge or emission, as fixed by the pollution control board, such units may be relived of paying insurance premium after certain years, say after 10 years of payment and it will be applicable for each and every workman working under that unit. But in future if it will appear that such units are breaking the norms and various rules and regulations and standards as fixed by the Pollution Control Board for controlling the pollution, they have to start payment of insurance premium again with fine. The entire system of this payment of insurance policy and other ancillary functions, in connection thereto, should be controlled and vigiled by the State Pollution Control Board. Over and above such proposed legislation should not be lack of sustainable approach.

In addition, small entrepreneurs or operators, who have no sound financial capacity, either to relocate their units or to change their operating system introducing sofisticated technological devices by court's order aiming at mitigating the environmental pollution and in view of that, who have no other alternatives than to close down their units resulting loosing of jobs of thousands and thousands of workmen working under them, they should be provided with the adequate and effective financial support
with easy and soft terms of repayment with low rate of interest by the State authority through its financial agencies, so that such operators would not be forced to close down their units. If required, existing laws in connection with the financial institutions may be amended or new legislations may be enacted regarding repayment of loan for necessary relaxation of existing rules and regulation in connection there with. State authority should also make necessary arrangement for supplying raw materials in subsidised rate to those operators for helping them to relocate and rebuild their units as early as possible under the specified terms and conditions as fixed by the Courts.

Environment Bench, popularly known as Green Bench, should be constituted at each and every High Court, if not already been constituted therein and the Environment Bench should function regularly and adequately for giving early and quick relief to the people who come before the court of law with the disputes relating to the environmental issues otherwise there would be a chaotic condition in administering justice in environmental cases.

It may be further suggested here that Environment Bench may be also extended up to the lowest judiciary. It may be constituted at the District level having the Jurisdiction vested upon the Judicial Officer not below the rank of District Judge and that Bench should function on regular basis and expeditiously just like Fast Track Court which would be free from procedural complication for expediting the adjudication process in resolving environmental disputes. As a result, both the sides, the aggrieved common people and alleged offenders, specially the industrial operators, may get relief at earliest opportunity from that Bench in the absence of trouble
some and cumbersome adjudication process which is very much against the concept of sustainable development in the society.

National Environment Tribunal Act, 1995, may be amended for decentralising the power of the Tribunal dealing with the matter regarding compensation in case of death, injury inflicted upon the person or the property and environment arising out of environmental accident caused by hazardous substances, not only at state level, but also at district level and as a result, case may be started at lowest level and people at all corner of the country can easily get benefit of this tribunal constituted under this Act, like Consumer Forum. There should be an Appellate Forums both at State and National level, which may be constituted under this Act after necessary amendment. In this tribunal, Adjudication process should be free from procedural rigmaroles of ordinary civil court. This will help in dispensing justice expeditiously and meaningfully to the common people suffering from the environmental maladies.

In this regard, financial burden for Administration of Justice from grassroute level dealing with the environmental matter may be incured from a portion of levy or cess which is usually collected from the industrial units at the time of its installation as caution money for giving consent to start with and the money which is deposited at each and every year for renewal of such consent for carrying on the business of the industrial units, as per provision of Law and certain portion of fine, which may be collected from the operators or the erring units violating the rules, regulations or norms or conditions as set by the authorities, sanctioned by the laws, at the time of operating their units, can be utilised for this purpose.

Lastly, it may be stated that judiciary has to respond to the actual
problems relating to the environmental issues in the present day context in an effective way. By their activist role, judiciary should meet the demand of time, i.e. demand of sustainability. There should be a proper balance between the protection of environment and the development process. Society shall have to prosper, but not at the cost of environment and in similar way, the environment shall have to be protected but not at the cost of development of the society. Both environment protection and development process should run side by side.

Thus in modern welfare-state, like India, Judiciary should assess the social needs and realities and the aspirations of the common people and with this end in view, Indian Judiciary should act elegantly and effectively to protect the environment and control the pollution on the basis of new judicial thought and philosophy required to be introduced to give relief to the large number of people without infringing the sustainable growth of the society. So that judiciary can play more activist role in a meaningful and positive way to protect the environment from pollution and to prevent the ecological imbalance to secure better living not only for the mankind but also for other living organisms in future without disturbing the economic sustainability. In this regard Indian Judiciary has no other option than to follow the Johannesburg Line of sustainable approach which speaks not only for environment protection but also for the poverty alleviation of the poor, downtrodden and vulnerable section of the society.