Preface

The quest for learning is one aspect of human life which seems to be totally unaffected by the Law of Diminishing Returns. The more we learn; more unknown facets of our knowledge are revealed! I guess this doctoral study has undoubtly taken my learnings in Environmental Law to next level, yet the journey seems to be still much longer.

I undertook this research work primarily to understand the functioning of the Environmental Impact Assessment Laws in India and its application in regulating the developmental hazards. The conflict between Environment and Development is constantly on the rise and the outcomes of this conflict have become globally ominous.

Nature’s fury, which recently pounded state of Uttrakhand in June, 2013, in India, has once again compelled us to revisit the old debate of “Should Trees Have Standing”?

The said catastrophe has suddenly forced us to introspect on our so called agenda of development, which is adopted to give a socio-economic facelift to this unique mountain terrain. The physiographical and ecological characteristics of Uttrakhand region have always been ecologically very sensitive, thus requiring special attention for its environmental planning and sustainable conservation.

However, all wisdom of human civilization was either lost or ignored and large scale, rapid and unplanned socio-economic development was launched without any environmental concerns. Soon, the local ecology was ravaged by the unplanned growth and endangered the local ecosystem. The recent natural catastrophe has completely wiped out the realms of the human development and established the supremacy of nature’s dominance in the state of Uttrakhand.

There were several laws that were legislated since independence to protect and safeguard the environment in India but they were either ignored or were grossly violated by its stakeholders. Most policy as well as legislative checks ‘n’ balances have failed due to the negligence of the various implementing authorities and the state to some extent.

As we know, law by its mere existence cannot automatically solve any issue existing in the human society.

Since, the beginning of human society, law has been perceived as a tool for creating order in society. Thus, law has emerged as an instrument of social change. Law has also emerged as a by-product of the social dynamics itself. It has always adapted itself with the changing dimensions of time, need and context. This dynamic process, by which law affects, moulds and transforms the society in its course, has generated interest among the socio-legal researchers. In such research, the impact and societal outreach of the law has been the fundamental query.

However, the letters of law are often said to be in dead and dormant state and thus needs human intervention and the will of the state to implement and make it operative. If the state is negligent and its people are ignorant then the law will remain inactive. It is the combination of both the will of the people and efforts made by the
state that can make the law operative and more effective. Thus, it has been rightly said that;

“The essence of law lies in its spirit not in the letter.”

An amalgamation of various factors are required to make laws more effective and enhance their efficacy, such as, legislative drafting of more purposeful law backed by good ground research, democratic debate and discussion of the draft bill, thorough legislative process for making laws, co-ordination between the various organs of the state to implement the laws and lastly, in case of any legal issue, judicious interpretation by the judiciary.

In the interpretation of any statutory enactment or legislative piece, the language used in the text is considered to be the most crucial factor for the determination of the true legislative intent behind it. In this context, judicial interpretations and construction have evolved as effective tools by the court of law, to derive the contextual meaning of any provision of a statute for resolving either the question of law or fact, brought before it.

Through the interpretation of the statutory text jurisprudence of law has significantly evolved from the narrow proposition of ‘law as it is’, to the liberal proposition of ‘law as it ought to be’.

This research work with the help of tool of judicial interpretations focuses on the analysis of the adequacy of the EIA laws in India. The ultimate goal behind the legislation of the Environmental Impact Assessment Laws was not only to fulfil the

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technical requirements of law in letters, but also to synthesize the laws with the developmental process for environmental protection in true spirit.

Lastly, the objective is to observe how far the judicial interpretations have been able to expand the existing scope of the Environmental Impact Assessment Laws. The research aims to draw a nexus between the judicial interpretations vis-a-vis the development of the jurisprudential aspects of the Environmental Impact Assessment Laws in India.