Chapter – IV

Sanctions Regulating Groundwater Pollution
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SANCTIONS REGULATING GROUND WATER POLLUTION

Technology and soaring world population together have changed the vital balance between man’s demand and the earth’s resources. What is taken from the earth is more than what is replaced. Much of what is taken is misused and the waste materials are allowed to contaminate the water. It is a problem that is only being recognized and not being solved. The measures which were taken in the various statutes were largely ineffective.¹

Environmental law is an instrument to protect and improve the environment and to control or prevent any act or omission polluting or likely to pollute the environment. In view of enormous challenges thrown by the industrial revolution, the legislature throughout the world is busy in this exercise. Many have enacted laws long back and they are busy in remodeling the environmental law vis-à-vis sanctions.²

Sanctions are officially imposed punishments aimed at enforcement of legal obligations. Sanctions, may, therefore be classified into two categories namely, civil and criminal. Civil sanctions are those which redress civil injuries, while criminal sanctions are those applied by criminal courts. The aim of the latter is to, (i) discourage future violations, (ii) enforce public justice (iii) punish the offenders for deliberate infractions of law; and (iv) enforce payment of fines and penalty.³ Criminal sanctions seem to be more effective in preservation of groundwater quantity and quality.

¹ Doabia, T.S. (J): Environmental Pollution Laws in India, 2005 (Ed), Vol. 1, p. 3.
In the modern world of depleting resources the availability of water in right quantity and quality has been adversely affected because of human activities. Water has increasingly been made unusable due to irrational tampering with the existing water resources. How can we maintain 'a viable and sustainable water for all living and non living beings in this scenario.' The only possible solution seems to be the involvement of legislative imposition of standards backed by sanctions for non compliance, which aim to establish a penalty the expected value of which should exceed the cost of compliance. This intervention denotes the aggregate of those rules and principles of conduct which the government recognizes as those which it will enforce or sanction, and according to which it will regulate, limit or protect the conduct of members of the community.  

Since every law must have some objective in the context of water law, it is necessary that such legal rules, standards and the consequent sanctions for their non observance, should take care of the basic issues involved in any resource management, namely, equity, justice, development and sustainability.

It is submitted that the old statutes must be replaced by new laws/statutes to overcome the persisting problems of wastage of groundwater and its pollution. Special laws on pollution control in India require criminal sanctions for ensuring their effective enforcement. All those enactments incorporate provisions dealing with penalties and procedure. It is proposed to examine criminal sanctions prescribed in these enactments in general with a view to evaluating their effectiveness. It is noteworthy that not only different

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5. Ibid., p. 115.
legislative regulations deal with water related issues, even religions reflects serious concern for water and its significance in environmental perspective. It has become a real problem to get pure water, air or food. This is all against the law of nature and the basic concept of ideal living.

A. Sanction under Religion

Not only different legislative enactments set rules to save the earth’s precious resources like, water, air, plants, wildlife, etc., there are numerous similar provisions included in almost all the religious scriptures to maintain the equilibrium of the environment. Environmental ethics has always formed an inherent part of Indian religious percepts and philosophy. Worshiping of nature—sun, moon, earth, air and water etc. was not merely a primitive man’s response to fear of unknown, but arose from deep reverence shown to the forces of nature which sustain and preserve human life on this planet.\(^7\) In Hinduism, fouling of the water of a river was considered a sin and it attracted punishments of different grades which included penance, outcasting, fine etc. Pollution was controlled rigidly in the ancient time. Similarly, the divine religion also puts forth probability measure concerning the misuse and water pollution. Holy Quran describes “Do not make mischief in the earth”\(^8\). Furthermore, Islam does not allow one to over use and misuse water. It permits running water for being used to clean dirt or filth, but for the same purpose one cannot utilize the stagnant water.

This is the pious duty of all the human beings not to pollute air, water, and their surrounding. These are all the gifts from Allah, pure and free from


\(^8\) ‘Holy Quran’.
pollution. Man has been created in this world to implement and administer the commandments of Allah. The more one obeys His commandments, the more he becomes near and dear to Him. It is said that “Allah Jameelun, Yohibbul Jamal” (Allah is beautiful and he loves beauty). A thing of beauty is a joy for ever. Allah likes and loves those men and women who keep every thing physically clean (bodily cleanliness and the cleanliness of the surrounding) and maintain spiritual cleanliness (purification of soul). Allah loves his creations much more than what we love our own kiths and kins. So if any one does anything against the law of nature and by polluting the environment makes the life of others miserable and difficult, Allah does not like such persons.

It is the cardinal principle of Islam that it is based on piety and cleanliness. It is enjoined upon muslims to keep themselves and their environment clean and do not pollute it. Dirtiness and impurity leads to conditions which may be unhygienic and therefore unfavourable for healthy living. If we are kind and considerate to the creation of Allah on earth, he may be kind and merciful to us in heaven. It is said that ‘Khairunnas Mein Yunfaunnas’ the best among you is that person who is maximum useful for other persons. In other words, the most undesirable and wicked are those persons who create trouble for others. If a person is selfish and is not benevolent or kind to others, such person’s soul is impure or foul. The wrath of Allah awaits such persons in this world and the world hereafter. Allah has revealed in Holy Quran “Qad Aflaha Manzakkaha Waqad Khab Mandassaha” (Truly he succeeds who purifies it (the soul), fails who corrupts it).

B. Sanctions/Obligations under Constitution

The Directive Principles of State Policy, contained in part IV of the Constitution, represent the socio-economic goals and inspirations of the people which the Nation is expected to achieve. These principles represent the fundamental features and the social conscience of the Constitution. These are meant to guide the destiny of the Nation by commanding three wings of the state i.e. legislature, judiciary and the executive to implement the principles to the extent possible. These principles are not the temporary will of a majority in the legislature but the deliberate wisdom of the Nation exercised while setting the paramount law of the country.\(^\text{12}\)

So far as environmental laws are concerned, there is a clear mention made to this effect. It is Article 48-A which provides that the state shall endeavour to protect and improve the environment and to safeguard the forest and the wildlife of the country.

Moreover, after the Stockholm Conference on Human Environment held in 1972 part IV-A was inserted in the Constitution of India. Article 51-A(g) of this part provides that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. This chapter is addressed to the citizens of India; they owe a duty to the state, to the Nation and to themselves. This chapter indirectly confers a right on the citizens to see that other citizens who are remiss in performing their duties are called upon to do so. In fact the citizen of this country owes a duty and as a matter of fact, is under an obligation to see that national property including environment is not damaged.

If it is done on the part of an individual, penal laws are there to take care of it. The state is also well within its right to invoke civil remedies and claim damages. There are statutes which provide for a collective fine also. Thus, where a damage is caused to environment by an individual or by a collective action, then citizens can be penalized.\(^{13}\)

In India the judicial attitude in protecting and improving the environment provides a testimony of the fact that directive principles are not mere "guiding principles" of policy but they have to be given effect to.\(^{14}\)

In *Shri Sachidanand Pandey v. State of West Bengal*\(^{15}\), the Supreme Court of India pointed out that whenever a problem of ecology is brought before it the Court is bound to bear in mind Art. 48-A and 51A(g) of the Constitution. Under such circumstances, the court is not to shrug its shoulders and authority. The court can always give necessary directions.

It is thus evident that in certain cases the judges can take affirmative action commanding the other organs of the state i.e. legislature and executive, to comply with statutory obligation of protecting and improving environment.

In *Damodar Rao vs S.O. Mc Hyderabad*\(^{16}\), the Court pointed out that in view of Articles 48-A and 51A(g) it is clear that protection of environment is not only the duty of citizens but it is also the "obligation" of the state and all other state organs including Courts.

In *Kinker Devi v. State of Himachal Pradesh*\(^{17}\), the High Court reiterated that in Articles 48-A and 51A(g) there are both a constitutional pointer to the

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\(^{13}\) Doabia, T.S. (J): op.cit., p. 394.  
\(^{14}\) Id., p. 390.  
\(^{16}\) AIR 1987 AP 171.  
\(^{17}\) AIR 1988 HP 4.
state and a constitutional duty of the citizens not only to protect but also to improve the environment and to preserve and safeguard the forest, the flora and fauna, the rivers and lakes and all other water resources of the country. If there is neglect or failure to abide by the pointer, the court can not remain a salient spectator. To ensure the attainment of these constitutional goals of the protection and improvement of environment, the Court can intervene effectively by issuing appropriate writs, orders and directions and in doing so it can seek guidance of Directive Principles of State Policy.

In the light of the Article 48A and 51A(g), state can come out with such sanctions, which may restrict citizens or people to desist from flouting the rules and laws related to water pollution and its misuse in various forms.

C. Sanctions under Municipalities Acts

Municipalities Acts of different states like Uttar Pradesh, Punjab, Bihar, Tamil Nadu, West Bengal and Madhya Pradesh etc. governed by the statutes passed in 1916, 1911, 1920, 1932 and 1956 respectively which deal with collection and carting away of wastes, development taking place in other areas as well as urban complex do not get reflected in the laws to satisfy modern urban living conditions.\(^{18}\)

Meanwhile, the extraction of groundwater has increased. In order to overcome any crisis resulting in groundwater depletion, it has become necessary to excavate big ponds with maximum depth for storing and preserving rain water. In India, present uniform tendency is to fill up pond and wet land for the purpose of construction of residence or housing complexes or for extention of factories and industries. But when the world is about to face a

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\(^{18}\) Thakur Kailash Lal: Environmental Protection Law and Policy in India, 2003, p. 264.
crisis of water, utmost priority should be given for extension of catchment areas. Look into the importance of problem the court in *Satish R. shah v. State of Gujrat*\(^{19}\), held that preservation of water bodies is a paramount duty of the State. Municipal authorities were directed to notify all water bodies in official Gazette.

The other aspect of matter was considered in *Municipal Council of Ratlam v. Vardhichandra*\(^{20}\). The statutory duty of the Municipality was highlighted. If the authorities are not complying with the directions then action can be taken in terms of section 188 of the Indian Penal Code. The Court further said that the officer incharge and even the elected representatives will have to face the penalty of the law if what the Constitution and follow-up legislation direct them to do are defied or denied wrongfully. The wages of violation are punishment, corporate and personal.

Similar problem arose in the case of *Dr. B.L. Wadhera v. Union of India*\(^{21}\). It was said that Municipal authorities were found to be wholly remiss in discharge of their duties under law. Several directions came to be given earlier in Dr. B.L. Wadhera case but it was found essential to give further directions.

In the above case, the Supreme Court of India directed that the Municipal authorities had to seek permission to fine Resident Welfare Association or Market Association where polluter could not be identified. It was further held that disposal of waste, identification of person or body to be fined are the issues which municipal authorities should consider and it may do

\(^{19}\) AIR 2004 NOC 192 (Gujrat).


so in accordance with law. The court again directed that Magistrates were to be appointed to ensure compliance with various statutes and to try offences relating littering. Till forming of a scheme Rs. 50 fine was directed to be imposed for littering. The directions were given for the disposal of solid waste.\textsuperscript{22}

Over the lack of accountability at all levels of the municipal authorities concerned and over the inaction of authorities in connection with the fourteen direction issued in the \textit{Dr. B.L. Wadhera case}, the Supreme Court of India issued time bound orders in \textit{Almitra H. Patel v. Union of India}\textsuperscript{23}, the court held that costs were imposed on Municipal Corporations and State Government for delay in filing responses to committee recommendations regarding cleaning up of cities concerned and collection and disposal of solid waste.

The Supreme Court of India speaking through Krishna Iyer, J. dismissed the appeal of the municipality and held that, the dynamics of the judicial process has a new 'enforcement' dimension not merely through some of the provisions of Criminal Procedure Code, but also through activated tort consciousness. The officer incharge and even the elected representatives will have to face the penalty of the law if what the Constitution and follow up legislation direct them to do are defied or denied wrongfully. Achieving accountability in administration is a challenge in the area of modern governance. But this has been done by our judiciary.\textsuperscript{24}

Above all, Municipal Corporations do not have enough powers according to the old laws and regulations to institute legal proceedings against

\begin{itemize}
  \item \textsuperscript{22} (2000) 2 SCC 679.
  \item \textsuperscript{23} (2003) 3 SCC 575.
  \item \textsuperscript{24} Doabia, T.S. (J): op.cit., p. 831.
\end{itemize}
the unlawful people which result into ineffective implementation. Old regulations have now lost their relevance, therefore, old and obsolete laws can not withstand the present need of the sprawling urbanization. Therefore sanction should be quite computable with the changing scenario.

To tackle the problem of present urbanization and industrialization in Metropolitan cities, the Ministry of Environment and Forest drafted Biomedical Waste (Management and Handling) Rules, 1998, Municipal waste (Management and Handling) Rules, 2000 etc. which contribute in the protection and maintenance of pollution free environment.25

Bio-medical Waste has been defined to mean any waste which is generated during diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in production or testing of biological process.26 Bio-medical waste is not to be mixed with any other waste. In B.L. Wadhera v. Union of India27, the Supreme Court threw a flood of light on some important limbs of this concept regarding disposal of biomedical waste. Guidelines issued by Supreme Court are not being followed by hospitals, medical shops, clinics etc. One of the reasons why the hospitals have not been leaders in preventing pollution is that they are not monitored or controlled by any statutory rule or regulation with respect to the waste management. As prescribed in Bio-medical Waste rules, 1998, precautions must be taken while destroying the medical waste. One of the precaution is that the pit should be distant from habitation, and sided so as to ensure that no

27. AIR 1996 SC 2696.
contamination occurs of any surface water or groundwater (schedule V). Despite the rules, government lacks ability to enforce their legal requirements.\textsuperscript{28}

Municipal Solid Waste (Management and Handling) Rules, 2000 have again been issued under the Environment (Protection) Act, 1986. These rules define various forms of waste material. So for as Municipal Solid Waste is concerned, this has been defined. It includes commercial and residential waste generated in municipal or notified areas in either solid or semi-solid form excluding industrial hazardous waste.\textsuperscript{29} The Rules also deal with the term disposal. The term has been defined to mean final disposal of municipal solid waste in accordance with specified measures to prevent contamination of groundwater, surface water and ambient quality.\textsuperscript{30} The responsibility can be discharged by the Municipal Authority or by person who has been classified as an “operator of a facility”. A provision has to be made for ‘land fill’ sites. The term ‘landfill’ has been defined to mean disposal of residual solid waste on land in a facility designed with protective measures against pollution of groundwater and surface water.\textsuperscript{31} Time has come when the Government or the public authorities and Municipalities should take effective steps against such illegal dumping or hiding highly toxic dumps under the soil. Otherwise, time will come when these chemical time bombs will burst causing destruction.\textsuperscript{32}

Urban solid waste management is an essential municipal service for protection of environment and health of citizens. Therefore, least constantly

\textsuperscript{28} Supra note 25, p. 101.
\textsuperscript{29} Municipal Solid Waste (Management and Handling) Rules, 2000, Rule 3(XIV).
\textsuperscript{30} Rule 3 (VIII).
\textsuperscript{31} Rule 3(XI).
\textsuperscript{32} Doabia, T.S. (J): op.cit., p. 883.
and most appropriate technological option for safe management should receive the needed funding. Individual citizens, industries, hospitals, business houses and NGOs should cooperate with the Municipal authorities to ensure safe management of urban solid waste without damaging groundwater quality.

So far as Rules and Regulations are concerned they have taken meticulous care regarding disposal of Bo-medical waste and the Municipal Solid Waste. However, in reality the situation is not as it should be and as visualized by the rules. This requires strict action to be taken under the Act and the Rules. Bio-medical waste and waste water should be properly addressed and relevant laws strictly enforced.33

**D. Sanctions under Planning Acts**

In the post independence period there has been a concerted effort on the part of the government to enact comprehensive planning legislations. For instance, the Maharashtra Regional and Town Planning Act, 1966, Mysore Town and Country Planning Act, 1961, the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act 1965, the Andhra Pradesh Urban Areas (Development) Act, 1975, the Bombay Metropolitan Region Development authority Act, 1975 are some of the legislation. Similar legislations are in existence in some other state as well.

Planners seldom recognize the ground reality of a particular region, for instance prior to formulating a plan, there should have been some pre-requisite works pertaining to that every geographical region. It should always be the matter of great concern for a planners to have a good deal of basic knowledge related to the water scenario, i.e. the region must not be a water deficient area

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33. Id. p. 879.
as well as the built up area does not cause direct or indirect harm to the purity of the water. Planners must have all the necessary facilities to adopt a rainwater harvesting system, failing which strict regulatory sanctions should be evolved to penalize the violators of the pollution related provisions. Efforts should also be made that the planning and its implementation processes work tandem with each other. Urban planners and civic authorities lack of will power to intricate legal proceeding against the offenders even whatever sanctions hitherto they have been provided with the legislations. Further, the scope for the violations of the rules needs to be tackled iron handedly for having a liveable urban environment.

E. Sanctions Before Pre-Independence Laws

Even before the independence of the country there were several statutes dealing with abatement of water pollution. The pre-independence government was conscious of the fact that natural resources are to be kept free from pollution. The concerns were shown not only for the water bodies but also for the sea and seashores. Some of the legislative measures are as old as 1853. The provisions of Indian Penal Code (IPC) were quite effective to deal with the subject of environmental pollution. The statute in force did not use the word environment but effect of the legislation was quite effective.  

(a) Shore Nuisance Act 1853, this Act provided authority to the collector to get the nuisance removed or abated if it was not removed or abated within one month of the issue of notice.  

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35. The Shore Nuisance Act 1853, Section 5.
(b) Oriental Gas Company Act 1857 laid the provision of fine of two hundred rupees if the water be fouled by Gas, to the person whose water was so fouled on a further sum not exceeding one hundred rupees, for each day during which the offence shall continue, after expiry of 24 hours from the issue of notice of such offence.36

In the Sarai Act 1867, a penalty of rupees 20 was imposed for not maintaining the standard of water.37

According to Northern India Canal Act, 1873 whoever polluted the water of any canal so as to render it less fit for the purposes for which it was ordinarily used would be fined with a penalty of imprisonment not exceeding one month or a fine not exceeding fifty rupees or both for breach of provisions.38

The Fish Act 1897, provided that for putting poison into any water a person was imprisoned for 2 months with fine or extended 2 hundred rupees.39

Section 26(1) of the Indian Forest Act 1927 makes it punishable if any person, who, in contravention of the rules made by the State Government under section 32(f) relating to poisoning of water in forests, poisons of a water of a forest area.

The India Port Act, 1908 enumerates the provision of penalty for the violation of the Act upto 500 rupees and reasonable expenses which may be incurred in removing the same.40

36. The Oriental Gas Company Act 1887, Section 17.
37. The Sarai Act 1867, Section 5.
38. The Northern India Canal Act 1873, Section 70.
39. The Fish Act 1897, Section 5.
40. The Indian Port Act 1908, Section 6(2).
A maximum of 2 months imprisonment was also prescribed to the extent of receiving notice from the conservator of port to desist from casting or throwing of blast rubbish.\(^{41}\)

In Indian Penal Code, the punishment prescribed for public nuisance is 200 rupees only.\(^{42}\) For fouling of water punishment is provided as 3 months imprisonment and fine five hundred rupees or both.\(^{43}\) Any Act which is likely to spread infectious diseases shall be punished with imprisonment of either description for a term which may extend to six months or with fine, or with both.\(^{44}\) Punishment for mischievous act is three month imprisonment or with fine, or with both.\(^{45}\)

The lenient laws are not adequate to deter the polluting industry and individuals. In the case of a factory or industry even if they are found releasing chemical agents which ultimately pollute the ground water and thereby reduce the quality and quantity of water, they are just told to compensate with some money. This compensatory justice is not in a position to address the real problem.

The significant old prescriptions adopted through various means and by different agencies, it becomes clear that such laws now do not reflect relevance in accordance with the serious nature of the environmental condition and for the purpose of maintaining clean atmosphere some more stringent formulations are needed to be heralded.

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41. Section 21(2).
42. The Indian Penal Code 1860, Section 290.
43. The Indian Penal Code, Section 277.
44. Section 269.
45. Section 426.
F. Sanctions under States Laws

In view of curbing the menace of water pollution and its misuse by the people, it was for the first time realized by certain states to come out with a clear perception. Among the various states which initiated the steps, Orissa\textsuperscript{46} Maharashtra\textsuperscript{47} and Gujrat\textsuperscript{48} became the frontline states in the country to put forth laws in relation with water pollution.

Orissa became the foremost state to adopt such legislation. This state adopted the provision for the maximum penalty of three months imprisonment or fine of one hundred rupees. It was also emphasized in the Act that the habitual offenders would be punished more severely. But the Maharashtra Act restricted its area to the two pollutants namely industrial waste and the domestic sewage. It also attached less significance to the water pollution by awarding maximum punishments, which were described under the Indian Penal Code for non serious offences. Had the offence of water pollution and its misuse been considered as of severe nature? It would have been better way to check the problems in a more considerable way. Thus the punishment prescribed for such offences must have to be made more stringent rather than those of the shallow nature.

G. Sanctions for Misuse of Aquifer and Contamination of Water

(a) Penal Sanctions

At later stage some states also formulated such laws. The states which heralded legislation covering water pollution and overexploitation of ground

\textsuperscript{46} The Orissa Water Pollution Act 1954.
\textsuperscript{47} The Maharashtra Prevention of Water Pollution Act, 1970.
\textsuperscript{48} The Gujrat's Water Pollution Act, 1977.
water include Andhra Pradesh, Gujrat, Goa, Himachal Pradesh, Kerala, Karnataka, Maharashtra, Tamil Nadu and West Bengal.

(i) The Andhra Pradesh Water, Trees and Land Act, 2002 lays down for the punishment with fine upto 1000 Rs. but not less than 5000 Rs. for the violation of the act. The abater for the offence of the act shall also be bound for the punishment to the same extent. Moreover, damaging, attempting, polluting or obstructing of any part of a public water supply or water body or an encroachment with such water bodies and aquaculture, waste disposal or direct disposal of waste water into the aquifers is punishable with imprisonment for a term which shall not be less than one month but which may extend to six months without fine which shall not be less than 2000 Rs. but which may stretch upto Rs. 50000 or with both in addition to the cost of its repair or remedying the same and shall be recovered as an arrears, of land revenue. Person responsible for abatement of such offence or connivance shall also be liable and punished accordingly. Further, in the case of second and subsequent offence, the offender shall be punished with twice the amount of fine prescribed for such offence. The abator shall also be liable accordingly.

(ii) According to Goa Groundwater Act 2002 punishment for illegal sinking/construction and/or use of well and/or transportation of water and/or polluting and contaminating groundwater, a fine upto Rs. 500 will be imposed and for the second and subsequent offence

49. Section 35(1).
50. Section 35(2).
51. Section 35(4).
52. Section 17(B)(a).
imprisonment upto 6 month and fine upto ten thousand rupees, every
time may be imposed.\textsuperscript{53}

(iii) Gujrat Amendment Act 1976: Under this if any person violates any
provisions of the Act, he shall be punished with an imprisonment for a
term which may extend to 6 months or fine upto 500 Rs. or both.\textsuperscript{54}

(iv) In Himachal Pradesh: As far as offence and penalties are concerned
under this Act it recognizes two types of offence and penalty. Firstly, the
failure of intimating or supplying required information to the authority
as and when asked under the provision of the Act or obstructed the
authority or the authorized person of the State Government in the
exercise of any power under the Act. In such situation the wrong doer
will be punished by imposing a fine of 7000/- first time and for second
and subsequent offence 2000/- rupees. And secondly any user of ground
water sink, constructs or uses well in contravention of the provision of
this Act or the rules made thereunder, he shall be punished for the first
offence with three month imprisonment or with fine of 5000/- or with
both and for 2\textsuperscript{nd} time and subsequent offence with imprisonment for a
term which may extend to six month, or with fine which may extent to
ten thousand rupees or with both.\textsuperscript{55}

(v) In Kerala Ground Water Act, 2002 any person whoever breaks any of
the provisions and rules shall be punished with fine upto Rs. 500 and for
the second and subsequent offence Rs. 100 only.\textsuperscript{56}

\textsuperscript{53} Section 17(b)(1).
\textsuperscript{54} Section 100.
\textsuperscript{55} Section 21(1) & (2).
\textsuperscript{56} Section 21(1)(i).
(vi) The Karnataka Groundwater Act contain search and seizure provisions and established substantial fines for contravening regulations. In addition to fines, the Karnataka Act also provides for upto two years imprisonment for contravening any provision except well registration.\(^{57}\)

(vii) The Maharashtra Groundwater Act, if any person who disobeys any provision of the Act, the Officer Commandant may enter upon that land and remove obstruction, if any.\(^{58}\)

(viii) The Tamil Nadu Ground Act, 2003 provides that the violation of any provision of the Act is punishable with fine upto Rs. 1000 and for second and subsequent offences, fine which may extend to Rs. 2000 and in view of continuing offence shall be punished with fine upto Rs. 5000 everyday. A corporate offenders are also subject to specific regulations. Provisions for appeal against the orders of the competent authority is also made under the Act.\(^{59}\)

(ix) The West Bengal Ground Water Act, 2005 states that punishment for violation of any provision of the Act is punishable with fine which may extend upto 5000 and for the second and subsequent offence, fine which may extend upto Rs. 10,000.\(^{60}\)

In the matter of all the afforesated Acts, different government departments and corporate bodies will be declared liable vis-à-vis any violation.


\(^{58}\) Section 16.


\(^{60}\) Section 16(a) & (b)
It is a fact beyond all speculation that the success of laws lie on their effective implementation. Persons, who violate the provisions of any enactments relating to ground water, must be imposed heavy penalties. Whenever it is desirable, industrialist should be made personally liable for the violation of any state groundwater laws.

(b) Administrative Sanctions

Apart from this, there are administrative sanctions to control the depletion of groundwater resources in different states Acts. In most regulatory systems of states Acts there is a range of options available to the regulator, including variation, suspension or revocation of licence. Since these steps may lead to seize the equipments instruments used for unauthorized digging to destroy or dismantle the works, disconnect the power supply, and closer or seal of wells at the cost of owners. They are obviously of great importance. This is a part of a control strategy.\(^{61}\)

It is obvious from the state laws that in most cases imposition of fine seems to be the major solution providing prescription, which does not pave the way for the deterrent. It needs to be a more concrete provision for severe punishment so that violators seldom dare to break the law. Besides this, punishment should have every criterion to incorporate into its fold certain harsher measures of snapping the power supply, stopping water availability with folding the delivery of raw materials etc.

Acts of the states do not reflect similarities while dealing with the same kind of problems. Thus, efforts should also be made to maintain great correspondence amongst the laws of the states.

Companies engaged in soft drink, beverages, packaged drinking water, etc. use water abundantly without taking into account geological aspects of aquifer. According to the document released by the Uttar Pradesh Pollution Control Board, 2000-2001, distilleries across the state produced 432, 489 kilolitres of alcohol. The same report suggested that an average, for each kilolitre of alcohol produced 125 kilolitres of water was used. Role of such companies also acquires environmental vulnerability. It is, therefore, needed that their offences should stridently be dealt with. Hitherto, their violations have remained unnoticed by the legislation.

Penal provisions concerning corporate bodies are full of shortcomings. Corporates are given clean chit in most of the cases. Whenever a case against such bodies is registered their view points are considered to be the ultimate truth. But in ground reality, and more often if things are dwelled deep into, then gross misappropriation appears to be on their part. Thus there must be all efforts to declare liability in absolute terms so that negligence and alike offences are also checked strictly.

In the matter of all the aforestated acts, different government departments and corporate bodies should be declared liable vis-à-vis violation. What is really painful and ironic is that the government of India has spent crores of rupees to protect and improve the water pool, water bodies, reservoirs and wetland through panchayat. While on the other hand a lofty stand is taken by the Indian states to control depletion and contamination of ground water. The depletion can be attributed to exploitation of groundwater and encroachment over water bodies. If it was not checked it would become

63. Ibid.
dangerous. Excess exploitation of groundwater by installing tubewells should be checked and more attention should be paid to preserving the water reservoirs. Water reservoirs have a capacity to recharge groundwater at the rate of 1.44 millilitre per day to their adjoining areas but encroachment over water bodies was a matter of grave concern. Looking to the gravity of the problem, the encroachers whosoever should be punished severely.\textsuperscript{64}

**H. Sanctions under Environmental Laws**

There are three major water pollution control laws. These include Water (Prevention of control of pollution) Act, 1974, Water (Prevention and Control of Pollution) Cess Act, 1977, Environment (Protection) Act, 1986. Penalty prescribed under the environmental legislation may be divided into three parts:

(a) *Sanctions in Water (Prevention and Control of Pollution) Act 1974*

The Water Act 1974 provides the following types of sanctions:

(i) Minor sanctions

(ii) Major sanctions

(iii) Other kinds of sanctions

(iv) Liability of corporation and Government Department

**Minor Sanctions**

There are certain minor offences which do not badly pollute water or which act not directly polluting it. For such offences the punishment was imprisonment for a term which may extend to three month or with fine which may extend to Rs. 10000 or with both. These acts include: destruction, pulling down, removal, injuries or defacement of any pillar post or any notice or any

\textsuperscript{64} The Hindustan Times, June 18, 2006.
other matter put up inscribed on a place by or under the authority of the board, or disobeying the directions issued by the water control machinery, causing obstruction in their works; giving false information in any material particular; interfering with the water pollution protection device; violating the conditions imposed for granting consent or non compliance with the standard prescribed. Thus the minor penalty is imposed so that all the pollution agencies follow the orders and directions of the controlling agencies.

**Major Sanctions**

The Act does not prescribe same penalty for different act of violations. Failure to comply with any direction given under section 20(2) or (3), the violator shall be punished with imprisonment for a term which may extend to three months or with fine or which may extend to ten thousand rupees or with both and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

It is the violation of sections 24, 25 and 26 which would be dealt with severe punishment. The minimum punishment prescribed was, till recently, six months imprisonment which could be extended up to six years and with fine. The minimum punishment has since been raised to one year and six months from six months by the Water (Prevention and Control of Pollution) Amendment Act, 1988. The maximum of six years and fine have been

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65. The Water Act 1974, Section 42.
67. Section 41.
68. (i) Section 24 contains “prohibition on use of stream or well for disposal of polluting matter”.
   (ii) Section 25 and 26 further impose a prohibition on person or persons to discharge sewage or trade effluents into stream or river without the consent of the Board.
69. The Water Act 1974, Section 43 & 44.
retained. Further, the Act provides for the enhancement of penalty for repeating non compliance with sections 24, 25 and 26. The minimum punishment, prescribed is two years imprisonment which could be extended upto seven years with fine.\textsuperscript{70}

The amendment Act of 1988 has introduced a new provision which provides a residuary penalty clause which says that if any person contravenes the provision of this Act and no penalty is prescribed under the Act, then such person may be punished with imprisonment which may extend three months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing failure with an additional fine which may extend to five thousand rupees for every day.\textsuperscript{71}

\textbf{Other Sanctions}

Apart from the penal sanction, there were other means to control pollution. They included: firstly, the publication of names of the offenders. The Water Act provides in section 46 that it shall be lawful for the court to cause the offender's name and place of residence, the offence and the penalty imposed to be published at his cost in such a newspapers or in such other manner as the court deems necessary. The offender for this action must be one who has been convicted under the Act second time or convicted subsequently thereafter. It is not enough that the court simply black list such offender but the government also must not extend any privilege to such convicted person. This Act also favours social demoralization of the convicts.

\textsuperscript{70} Leela Krishnan, P.: op.cit., p. 176.
\textsuperscript{71} The Water Act 1974, Section 45-A.
Liability of Corporations and Government Departments

The act of company and government department also attracts the penal provisions. The Water Act extends liability for violations committed by companies to certain corporate employees and officials.\(^2\) In the case of M.C. Mehta v. Union of India\(^3\), the court held that no liability shall be attached to the Chairman or Managing Director, if he can show that the escape was due to an act of God or sabotage. But in all other cases the Chairman or Managing Director must be held liable to pay compensation.

The Act also extends liability for violations to heads of government departments when a department has committed a violation, unless the department head can prove that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.\(^4\) In this sense its scope is narrow. In the context of pollution law and offences under such laws’ such a provision in the Act would mean that if a company’s production manager or technical director has remissed in ensuring that the pollution regulation have been strictly complied with, then he would become punishable for the relevant offence under the Act. Although, he may be miles away from the scene of the offence and may not have sanctioned its commission. He might even have been unaware of it. And yet, he would become criminally liable. Wilfully permitting the offence is not necessary in the Water Pollution Act, though such was the shape of the provision in some earlier central Acts imposing criminal liability on corporate officials.\(^5\) Such provisions in fact give licence to pollute water. Apart from the penal sanction,

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\(^2\) Section 47.
\(^3\) AIR 1987 SC 987.
\(^4\) The Water Act 1974, Section 48.
the legislature missed incentive and assistance or encouragement to those who helped in augmenting or protecting the wholesomeness of water.

The drawbacks of the Act dilute the gravity of the problems. The crux of the problem lies in lack of enforcement of pollution norms. As a result, implementing environmental laws is often seen as detrimental. Collusion between polluters and local official is also very common. Even companies equipped with waste water treatment systems rarely used them.76

Despite these, Board has no coercive power against the polluter to take direct action against him, instead Board should institute proceeding before a court of law against polluter. This lack of penal power hampers effective control of water pollution.

There is another lacuna in the Act regarding the rights of victims of water pollution due to the act of the polluters which is that he can not directly initiate proceeding against the polluters. Instead he has to seek the sanction of the Board for initiating any proceeding for complaint or for restraining the polluter from polluting the water.

Above all, it may be said that the enhancement of sanctions would not in any way add to the effectiveness of the Act inasmuch as the inhibitions to employ them would be more when they become harsh.77 The legislative wing of the government should seriously ponder over the issue of desirability and the utility of the application of criminal justice system in this area. The categorization of offences and offenders, may also be given a serious thought. The provisions under section 24, 25 and 26 may be amended of their

76. Frontline, June 29, 2007, p. 60.
77. Leela Krishnan, P.: op.cit., p. 177.
shortcoming. The success of any Act in achieving the desired objects depends upon the enforcement machinery. The statistic shows that Central Water Pollution Control Board has achieved convictions only 2.8%. Only in Tamil Nadu the conviction rate has been 60.8%. The other states have not secured any convictions. The critics say: "the risk of penalties is so low that it is cost effective for industries to pollute than to invest in control measures".79

(b) Sanctions in Water (Prevention and Control of Pollution) Cess Act 1977

The first step towards regulation of groundwater use could be rationalization of water tariffs, especially for industry. At present, the Central Pollution Control Board simply collects a water cess under the Water (Prevention and Control of Pollution) Cess Act of 1977. However, the maximum cess collected under any category is 30 paise per 1000 litres. The minimum is five paise per 1000 litres.80

The Cess Act provides that every local authority should pay cess on water consumed or supplied.81 Regrettably, municipal bodies neither obtain consent under section 25 of the Water Act nor pay cess under the Cess Act. In this regard, almost every municipality and local authority in India is a tax dodger, liable to the penalties imposed under section 14 of the Cess Act. The result is that huge amounts of cess remain unpaid and the State Boards are deprived of funds.

Tariffs as low as these offer companies no incentives to move from existing water hungry industrial processes to modern, less consumptive ones.

They also fail to consider food and beverage plants where water is a crucial input in the final product as exported out of the local water cycle. The Authorities argue that water cess is still too low to induce polluters to change the behaviour and install pollution measures.\(^{82}\)

Meanwhile, India’s freshwater crisis seems to have caught the eye of the planning commission. Recent report suggest that an expert committee has been set up to study the implementations of groundwater cess policy and its recommendations are to be included in the 11\(^{th}\) plan approach paper; but neither the term of reference nor the recommendations of this committee have been made public. It is somewhat surprising to observe that the government is not sincerely taking the utilization of groundwater and its pollution on priority basis.

In *Sarawasthi Sugar Mills v. State Board*\(^{83}\), the Supreme Court of India held that the object of the Act is to control the water pollution and to ensure that industrial effluents are not allowed to be discharged into the water sources without adequate treatment. The *Water (Prevention and Control of Pollution) Cess Act, 1977*, is not an enactment to regulate and control the pollution but a fiscal measure to raise revenue for augmenting the resources of the water. According to the *Water (Prevention and Control of Pollution) Cess Act, 1977*, cess is levied on water consumed by persons carrying on the industries specified in the ‘Schedule’.

In *Arvind Textiles*\(^{84}\) case the Rajasthan High Court upheld the levy of an additional Octroi on grey cloth. The Octroi was imposed to finance the

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82. Shyam Diwan & Armin Rozencranz: op.cit., p. 205.
83. AIR 1992 SC 224.
municipal boards scheme to put up common effluent treatment plant to treat discharges from 200 textile processing units.

Therefore the legislation on the statute book cannot be effective until the people are encouraged to resort to judicial remedies to protect the water pollution.

*Sanctions in Environment (Protection) Act, 1986*

**Penal Sanctions**

The Environment Protection Act is a step ahead of the Water Pollution Act. It does not make any difference between the administrative offence or resource sustainability offence. Any act which may affect the resource adversely is punishable. Therefore whoever fails to comply with or contravene any of the provisions of the Act or the rules made or directions or orders issued thereunder is punishable with a fine upto Rs. 100000 or 5 years imprisonment.\(^{85}\)

The significant developments of the Environment Protection Act over the Water Act are as follows: first, the basis of imposing liability has been changed basically from fault in the Water Pollution Act to strict and absolute liability in the environment Protection Act. Continued violation of the Act and noncompliance will be visited with additional fine which may extend to five thousand rupees for every day. If the failure to comply with the directions continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.\(^{86}\)

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85. Section 15.
86. Ibid.
Administrative Sanctions

The Environment Protection Act, in addition to fine and imprisonment, has procedural penalties also. It gives power to Central Government to direct:

(a) the closure, prohibition, or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other services.\(^{87}\)

Same problem arose in the case of *World Savoirs v. Union of India*\(^{88}\), in this case industrial effluent discharged in the fields of farmers was beyond the prescribed limits. State Pollution Control Board found that they were not conforming to the prescribed standards. With a view to get the order implemented the electricity connections were ordered to be disconnected.

Again in the case of *Mahavir Soap and Gudaku Factory v. Union of India*\(^{89}\), directions were given by the Orissa High Court to close down industrial unit forthwith. With a view to get the direction complied with further directions were issued to the authorities to disconnect water supply, supply of electricity and other facilities. In this case, the industries were found to be causing damage to the environmental system. It was found that the processing of tobacco was generating highly polluted effluents.

The Environment (Protection) Act, 1986 empowers the Central Government to direct the closure of the industry. But it does not take into account the hardships to labour as a result of closure of the industrial units.

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87. Section 5 of the Environment Protection Act, 1986 provides power to Central Government to issue directions for the performance of its functions.
89. AIR 1995 Oris. 218.
Here, an important consequence of the effectiveness of judicial orders pertaining to closure of industries is that courts here are confronted with the prospects of either depriving workers of job opportunities or exposing them and the community to grave hazards. Therefore, there is an apparent contradiction in the legal codes and legal procedures.  

Even though it is comprehensive and it contains most stringent mechanism to control environmental pollution but the Environment (Protection) Act 1986 dilutes the sanctions by providing that when an act or omission constitutes an offence punishable under any other Act, the offender found guilty of such offence shall be liable to be punished under the other Act and not under Environment Act. This provision therefore weakens the rigorous punitive machinery of the Act. The provision of the Act also weakens the implementation machinery. It bars individual complaints to the court unless the complainant gives sixty days notice to the central government or the authority or authorized officers.

**Sanctions on Corporate bodies**

The Environment (Protection) Act, 1986 provides for offences by companies. The sections incorporate the strict vicarious criminal liability of persons who are responsible to the company for the conduct of its business, or of its responsible office bearers like director, manager, secretary etc. for all offences committed by a company. This is in derogation of general criminal law principle which says that ‘mens rea’ is an essential ingredient of an offence and both the intent and act must concur to constitute a crime.

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91. Section 16.
The provision to this clause say, that nothing contained in this subsection shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

The Environment Protection Act creates liability for offences by any government department. If any act is committed by a department of Government, the Head of Department shall be deemed to be guilty of the offence. He may be exonerated from any liability if he can prove that the offence was committed without his knowledge or he has exercised all due diligence to prevent the commission of such offence. If it has been committed with consent or connivance of, or is attributable to any neglect on the part of any officer other than the Head of the Department, such officer shall also be deemed to be guilty of the offence. Completely overlooking the mental aspect of the offender and imposing heavy penalty is an exercise in futility in any field. It will not help the citizen observing law. The law will be respected more in violation than in observance.

Above all, a statute can declare certain action or inaction as offence and lay down deterrent sanctions as well as effective remedy. It can provide for an administrative agency clothed with the authority of decision making and of imposing sanction to act an effective instrument of pollution control and misuse of groundwater.

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92. Section 16(1).
93. Section 17.
94. Section 17(2).
There has been a gradual shift from the liberal sanction to the enhanced penalties and fines. The compensatory remedies have not played their due role. The pollution problems are such that due to water pollution some of the human beings, animals, plants, or aquatic organisms may die or some may be on the way to death. Misuse of groundwater may create severe problem of desert. Many areas of our country shall be part of Rajasthan. The Cess rebate can hardly be said to be a strong motivating force. This is a matter which deserves serious indulgence and not laxity. Mere pecuniary compensation however big the amount, when a defaulter has the capacity to pay from the corporate account, will not be an effective deterrent. In extreme and appropriate cases there should be a minimum period of imprisonment which alone will be a morally degrading sanction to deter the white collar environmental offenders who belong to the high strata of society often living in a glass houses away from the environment they foul. Corporate managers and Government officials should personally be held liable for imprisonment apart from the heavy pecuniary compensation to victims. As advocated by Prof. Baxi unless prosecution is autonomous and conscientious, these Acts will fail in implementation.⁹⁶

Despite these comprehensive legislations, Factories Act, 1948 and the Industries (Development and Regulation) Act, 1951 also provide relevant provision regarding the regulation of waste and effluents from industries. The Factories Act 1948 provides for the disposal of wastes and effluents and requires effective measures to be taken in every factory.⁹⁷ The non-compliance

⁹⁷ The Factories Act 1948, Section 12.
of the provision invites stringent penalties which may extend to two years imprisonment and a fine upto one lakh rupees or both.\textsuperscript{98}

The Industries (Development and Regulation) Act 1951 was enacted with the object of bringing the development and regulation of a number of important industries under the control of Central Government contravention of the provisions may result in revocation of licence.\textsuperscript{99}

\textbf{Judicial Sanctions}

Despite all above deterrent sanctions in statutory provisions, the judiciary has taken many steps to provide remedy in the form of directions, restrictions and compensation to the victims. We need to look into the cases where the judicial restriction has been imposed. The first in line, is the decision in \textit{M.C. Mehta v. Union of India}\textsuperscript{100}. The court was left with no option but to direct the tanneries to stop their operations. The Supreme Court of India in \textit{M.C. Mehta v. Union of India}\textsuperscript{101} held that the Calcutta tanneries were operating in violation of mandatory provision of the Water Act 1974, and Environment Act 1986. The Court made the following directions:

(i) We impose a fine of Rs. 10,000 for pollution on all the tanneries.

(ii) We direct the collector of the area concerned to recover the fine from the tanneries.

(iii) The tanneries which failed to deposit the amount of fine recovered from the tanneries shall be deposited under a separate head called

\textsuperscript{98} The Amendment of the Act in 1987, section 92.
\textsuperscript{99} Thakur Kailashlal: op.cit., p. 265.
\textsuperscript{100} AIR 1988 SC 1115.
\textsuperscript{101} (1997) 2 SCC 411.
“Environment Protection Fund” and shall be utilized for restoring the
damage to environment and ecology.

Further, in *Rural Litigation and Entitlement Kendra v. State of U.P.*\(^\text{102}\) (popularly known as Doon Valley Case), in this case the Supreme Court made
the following observation:

“We are not oblivious of the fact that natural resources have got to be
tapped for the purposes of social development but one cannot forget at the
same time that tapping of resources have to be done with requisite attention and
care so that ecology and environment may not be affected in any way, there
may not be depletion of water resources and long term planning may be
undertaken to keep up the national wealth. It has always to be remembered that
these are permanent assets of mankind and not intended to be exhausted in one
generation”.

The Supreme Court of India in *Indian Council for Environ Legal Action
v. Union of India*\(^\text{103}\) observed that it is the responsibility of the Coastal States
and Union territories in which the coastal line stretches and exists to see that
the notifications issued from time to time are complied with and enforced.
Management plans have to be prepared by the state and approved by the
Central Government. If the said plans have been approved, the development
can take place only in accordance therewith.

In *Re Bhavani River v. Shakti Sugars Ltd.*\(^\text{104}\) Directions were issued by
T.N. Pollution Control Board to respondent industry for ensuring proper
treatment and disposal of treated effluent. Despite enough time having been

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\(^\text{102}\) AIR 1987 SC 652.
\(^\text{103}\) (1996) 3 SCC 212.
\(^\text{104}\) AIR 1998 SC 2059.
given, remedial steps were not taken by the industry. Industry was accordingly directed to be closed.

In *M.C. Mehta v. Union of India*\textsuperscript{105} the court noted with concern that mining may also cause fractures and cracks in the sub-surface rock layer causing disturbance to the aquifers which are source of groundwater and this may disturb the hydrology of the area.

*Vellore Citizens Forum v. Union of India*\textsuperscript{106} the Court held that it is true to state that leather industry in India has become a major foreign exchange earner and it provides employment to a good number of persons, it has no right to destroy the ecology, degrade the environment and pose a health hazard. It can not be permitted or continued with the present production unless it tackles by itself the problem of pollution created by the tanneries.

The question was that a producer of vegetable oil was extracting oil. It was felt that in the process, Nickel, Sulphuric acid and Hydrochloric acid could seep into the earth and reach the water bodies. It was felt that this has necessarily to be stopped.\textsuperscript{107}

In *M.C. Mehta v. Union of India*\textsuperscript{108}, the Court held that the payment by the industrial units to the State Industrial Corporation must be used in Construction of Central Effluent Treatment Plants in order to prevent further damage to the ground water and to arrest use of untreated water for growing crops and vegetables.

\textsuperscript{105} AIR 1996 SC 1977.
\textsuperscript{106} AIR 1996 SC 2115.
\textsuperscript{107} As mentioned in Doabia, T.S. (J.), 1st Ed. 2005, p. 518.
\textsuperscript{108} (1997) 3 SCC 715.
The Supreme Court of India in *M.C. Mehta v. Union of India*\(^{109}\) was of the view that it would be prudent that Central government should consider the constitution of authority under the Environment (Protection) Act 1986 and confers on them all powers necessary to deal with the situation created by the depletion of ground water levels, dwindling surface water resources, deterioration of surface and groundwater quality.

In case of *Indian Council for Enviro Legal Action Group v. Union of India*\(^{110}\), a PIL was filed for compelling the State Pollution Control Board to enforce the provisions of Water Act as it was pleaded that private units were producing certain chemical like Olium i.e. concentrated form of Sulphuric acid and Hydrochloric acid. The fact that highly toxic effluents were percolating deep into the earth and were causing groundwater pollution also... the mere fact that the units are not owned by the state would not be of any consequences in so far as issuance of directions are concerned.

It might be mentioned that Allahabad High Court had recently ordered eight sugar mills in Eastern Uttar Pradesh to pay penalty of Rs. 50 lakh each for polluting the groundwater in their respective areas.\(^{111}\)

In a first of its kind, a court in Agra has ordered the police to lodge a case against a trader of Sikandra in Agra for ground water exploitation. The court has ordered the police to lodge an FIR under Sect. 3/7 of the Essential Commodities Act (1955) and Section 268, 269, 504 and 506 of the IPC.\(^{112}\) The judgement may go a long way in controlling ground water exploitation.

\(^{110}\) 1996 AIR SCW 1069.
\(^{112}\) Hindustan Times, July 12, 2008, p. 7.
The Supreme Court as well as High Courts had noticed the increasing trend in number of cases coming to the courts where groundwater quantity and quality issues were raised. The sum and substance of the aforementioned decisions are that it is for the government to take appropriate decisions in the matters touching groundwater resources.

The judiciary has successfully handled this area of complex, complicated and fast growing and changing techno-sciences and multi-disciplines. The urgency of the situation became apparent in the last three decades. During this period immense volumes of new knowledge about pollution and overuse of natural resources became available.

The most tragic aspect is that neither the citizens nor the industry nor the local bodies, nor the government have taken serious notice of receding groundwater table and pollution. The laws, both old and new, on the subject, have looked like a young horse which has no riding capacity. It is, therefore, submitted that judiciary should come forward and take the issue of groundwater depletion and pollution in their hands.