CHAPTER VII
STRENGTHENING IMPLEMENTATION OF ENVIRONMENT LAWS IN INDIA

Environmental law enforcement, being a highly specialized area of implementation, entrusted to different agencies under different laws, presents a none-too-happy-a-picture; Lack or inadequacy of skill; less than satisfactory infrastructural facilities; poor and unimaginative understanding of the law; jurisdictional conflicts and Lack of coordination, among different agencies of implementation, appear to contribute to part and in effective implementation of laws. Ability of some of the more resourceful industries in either camouflaging their violations and non-compliance and in exerting undue pressure on the enforcement agencies, also has contributed to the inefficiency of the enforcement apparatus.

7.1 Law Enforcement- Untrained and Unskilled Personnel

The environmental law enforcement agencies present a very disturbing picture. Trained and skilled personnel in law are in short supply. The Ministry of Environment and Forests, upon coming into existence two decades back, had a Legal Cell, with a Law Officer. The Cell does not exist any longer. The policy papers and legislative drafts are prepared either by non-law persons within the Ministry or by commissioning the services of experts from outside the Government. Although, the drafts get whetted by the Law and Justice Department, before getting tabled before the Parliament, it is done routinely like any other legal draft with out bestowing any particular attention as the subject may demand.

The Legal Department would rather pay greater attention to the form, structure and the technical aspects of the draft rather than to its substance. The Ministry at the Centre and at its regional offices is served by scientific officers and social scientists and presided over by senior bureaucrats drawn
from the Central Civil Service, few of whom are trained in Law, much less in Environmental Laws. Another phenomenon, that is getting increasingly pronounced in the Environmental aspect of the administration is that the authorities at the policy-making level do not remain in the same position for long as to understand the nature of work and acquire an in-depth knowledge over its functioning. Instances abound of the personnel in the higher echelons of the ladder of administration getting training (including a couple of stints abroad) in the environmental management systems and then moving over to the other departments. Very little scope exists for putting into practice, whatever expertise acquired by the authority by such training. Nor, has there been a proper mechanism evolved to assess and account for such expensive investments.

While the Central Pollution Control Board (CPCB), at the Centre, is well served by a team of Law Officers, their role is confined in assisting and briefing the Private Legal Counsels, appointed for the purpose, after the dispute involving the government comes up before the Courts of Law. No system is evolved, as yet, to facilitate consultation, by the different branches within the Board, with the legal wing, before or at the time of decision-making by each one of them. No special care is taken in ensuring that the legal personnel recruited do possess the knowledge and skill required for understanding and interpretation of environmental laws. No regular, periodic, verifiable training programme is evolved to ensure that their capacity in Environmental Laws is enhanced, by the Board.

The story is not different in the regional offices of CPCB or in the State Boards. Not all the State Boards have legal officers and, even where they are there, their functions do not differ substantially from their counterparts in the CPCB. Since the State Boards are normally the ones, that are involved in the litigative process, the legal personnel recruited for the purpose are expected to possess the requisite knowledge and skill as to the
procedural and substantive aspects of environmental laws. The expectations are belied as one goes through the litigation profile of different State Boards. The higher judiciary has, time and again, reminded the Boards about these lapses in their litigation. The Gujarat High Court, in Gujarat Water Pollution Board V. Kohinoor Dyeing & Printing Works insisted that the Board officers to take effective steps for the service of the summons upon the accused; prepare the case thoroughly; resist adjournments; seek exemplary costs to deter the accused from adopting dilatory tactics and vigorously pursue appeals in the superior court.

Even the personnel who actually implement the law (like inspection, investigation, sample-taking, etc.) do not always observe the mandatory procedures prescribed. As a result, the Boards have cut a sorry figure, before the Courts of law, by losing out to the polluters, even when they had excellent case on their side. The Delhi Bottling Case, is an excellent example of this. A case that was not contested as to the claims of the Central Board, that the industry did to conform to the prescribed standards, was lost on the technical ground by the Governmental agency as it did not strictly observe the procedures prescribed under the Water (Prevention & Control of Pollution )Act, 1974.

7.2 Jurisdictional Questions

A plethora of authorities enforce different aspects of environmental laws. While, the pollution-related laws are primarily enforced by the Pollution Control Boards and the forest-related laws by the Forest and Wildlife Authorities, the management of other aspects of environment are entrusted to a variety of agencies, to function in a cooperative way. The Rules under the Environment (Protection) Act, 1986, require a number of agencies of State that include, the Revenue, Transport, Local Self-Government and Industry, besides the Pollution Control Boards to work in unison to achieve the desired results. One of the rules of interpretation of
statutes insists that whenever a number of statutes deal with the same subject matter, they ought to be harmonious construed as to ensure that each one would complement and strengthen the other and avoid any kind of overlaps in jurisdiction. But, in practical terms super egos and poor understanding of the law have come in the way of cooperation and complementarily in the functioning of different agencies.

The snowballing of the avoidable conflicts of jurisdictionary question have led to different agencies of state taking irreconcilable positions and we are witness to strange sights of cases fought by them over the issue, in the courts of law. The Courts of law too have not really helped in the matter by handing down confusion and conflicting decisions that neither reflect the true spirit of the law nor state the correct legal position.

One of the most familiar and oft-argued jurisdictional issue, pertains to the authority of the general administration and that of the Pollution Control Board. While, the general administration has the power to deal with every conceivable aspect of public nuisance, the State Pollution Control Board is empowered to tackle pollution. The problem of conflict of jurisdiction is perceived when the general administration attempts to initiate action over polluting activities, as amounting to public nuisance and the Pollution Control Board also arrives on the scene to deal with pollution. No uniformity exists in pronouncements of the different High Courts is resolving the conflict of jurisdiction question.

In the Tata Tea case, the Kerala High Court ruled against the exercise of jurisdiction by the General Administration, when the State Pollution Control Board was seized of the problem. It opined that since the specific pollution-related laws were complete codes designed to prevent pollution, they impliedly repealed the provisions of S.133 Cr. P.C., to the extent they related to prevention and control of pollution. However, the Andhra Pradesh High Court, in the Nagarjuna Paper Mills case, took the position that the
exercise of jurisdiction by the Executive Magistrate (District Collector), under Cr. P.C. does not conflict with the authority of the Specialized Agency (Pollution Control Board), as long as it did not interfere with an order of the latter.

In a subsequent case, the Divisional Bench of the Kerala High Court adopted the view of its Andhra counterpart by overruling the Tata Tea decision. The Karnataka High Court, in 1997, first chose to follow the Tata Tea ruling and later, the same year, quickly retreated to subscribe to the approach of the Andhra High Court. Perhaps, a more balanced position is taken by the Karnataka High Court which, in a later decision, found no conflict of jurisdiction between the two authorities and to construe the relevant legislations under which they exercise their respective power as complementary to each other.

It also further clarified that in terms of functioning, the pollution Control Board would, as a general rule, address itself to activities of greater complexity and of different magnitude (like industrial pollution), than minor and local instance of nuisance (like nuisance caused by a Poultry farm). The latter could, as a matter of fact and convenience, be addressed by the Magistrate under S.133 Cr. P.C. upon a representation by an individual or a small group of people. Extending further this logic, it could be interpreted that the jurisdiction exercisable by the two authorities can be concurrent, complementary and cooperative. While the “nuisance” could be tackled to maintain health, hygiene, law and order by one authority (Executive Magistrate), the dimension of “pollution” can be handled by the specialize agency (Pollution Control Board). Since such a classification is neither made by any legislative enactment, nor by the pronouncement of the apex court, as yet, the final word in legal terms, as to the resolution of conflict of jurisdiction, has not been said.
7.3 Budgetary, Infra-Structural and Organizational Problems

What appears like an abdication of responsibility by statutory agencies, in discharging the functions assigned to them, requires to be viewed in the light of severe constraints under which they work. Severe shortage of personnel and poor and inadequate budgetary allocations, appear to have contributed to their less than satisfactory administrative performance. Withdrawal of prosecutions without assigning reason, launching prosecutions for pollution without verifiable standards or the instrument to test and convict the offender and routine and cursory inspections forming the bases for initiating real action, are mere indications of the maladies that has set in the system of environmental governance. With Boards in place without a recognized laboratory to analyze emissions and laboratories lacking in equipment to measure emissions, as it prevails in a number of States, one cannot expect the statutory bodies to give a better account of themselves than what exists now.

There has been considerable progress in evolving excellent policies in the last couple of decades. A number of legislative enactments, during the same period, have helped in the creation and expansion of the environmental administrative set-up. The plan documents (especially from the firth five year plan onwards), have repeatedly stressed on making the environmental enforcement machinery more efficient and board-based (including popular participation in the decision-making processes). Building of proper infrastructural facilities has been considered, in all these documents, essential for the administration to give a better account of itself. Translation of these into actual practice with adequate budgetary allocations and ensuring a well coordinated and effectively functioning machinery of implementation is yet to take place. With a more dynamic MoEF in the head of things now coupled with the ‘visibility factor’ through media, it seems that these constructions will be done away with in the coming days. This important ministry will
have its own fund generating mechanism that can make this domain of
government more autonomous.

7.4 Politicization, Bureaucratization and Lack of Administrative Will

Environmental Governance in India, like any other aspect of
governance, as an idea and at the level of conceptions, made a promising
beginning. After initially raising a lot of hope it has lost its way and got so
bogged down in politics and administrative inefficiency that the common
man got compelled to look elsewhere for overcoming the environmental
problems faced by him. This can be illustrated by reference to the National
Committee on Environment Planning and Coordination (NCEPC).

Following the observation made in the fourth five year plan document
of the needs to establish a national body to bring about greater coherence and
coordination in environmental policies and programmes and to integrate
environmental concerns in the plans for economic development, the NCEPC
came into existence on 12th April, 1972, in the Department of Science and
Technology. The national committee was intended to act as the advisory
body to the Union Government on all matters concerning environmental
protection and improvement besides planning and coordinating the working
of different ministries concerning the subject. Initially, it was a fourteen
members body having a large number of experts drawn from a variety of
disciplines.

The Fifth Five Year Plan (1974-79) insisted that the NCEPC ought to
be involved in all major decisions concerning the industry, so that
environmental concerns get duly addressed. The composition of membership
got expanded from time to time (24 in 1977 and 35 in 1979). Each time there
was an increase in numbers, the expert representation decreased. Over-
bureaucratization, clash and conflict amongst various agencies represented
and lack of consensus in the decision-making progress, became the end
result. Viewing the Committee as an unwelcome guest, absence of
cooperation in its coordinated functioning and neglect by different departments of the government hit the final nail in the Coffin of NCEPC. The role of NCEPC in advising the Central Government and helping it to decide on the abandonment of the Silent Valley Project in 1983 (a project for damming the Kuntipuzha River in Kerala to generated electricity, that had the potentiality of destroying one of the richest biological and genetic heritages of the world, located in the Western Ghats) might, having the benefit of hindsight, have led the governmental agencies and the industrial lobby to view it as opposed to development. So it could have been that the body was viewed as an advisory not to be trusted or taken into confidence.

Constitution of core expert groups to advise the government on matters to advice the government on matters of policy and implementation of law, especially when faced with an emergency situation or in response to a directive from the higher judiciary, has become a routine affair. In certain cases, it might appear that such a formation, to be in deference to the wishes to the judiciary. However on closer examination it becomes evident that the entire exercise invariably has resulted in enabling the government to buy time, postpone decision making and when the reports are given, they remain at highest levels of abstraction as to become more of enunciation of principles and not real tools for better and effective implementation. The 1992 National Environmental Policy Document and Pollution Abatement Policy Document of the same year, may be cited as illustrative of the fact of grandiloquent design, without much of a serious effort, at the implementational level, in giving effect to the hortatory expression sin concrete terms.

Administrative high-handedness and non-observance of procedural formalities, in the implementation of the law, have often resulted in industries getting away with violations. In the Suma Traders v. Chairman, Karnataka State Pollution Control Board, the Chairman ordered closure of
the industry, on receipt and enquiry of the complaint received from the local residents against the air pollution caused by the food grain processing unit of the industry. The relevant provision of the law, required exercise of power by one upon due delegation of authority by the Pollution Control Board. On being challenged that the Chairman did not have the power to issue such an order, as he was not so authorized by the Board (as confirmed by the Board), the court held that the impugned order of the Chairman was in clear violation of the provisions of law and amounted to abuse of power. The court went a step ahead, in ordering the Chairman to pay a penalty of Rs.25000, by way of costs.

Political interference in appointments and in the day-to-day functioning of enforcement agencies have come in the way of these institutions developing into professionally competent and efficient bodies. The very general nature of qualifications required for he membership of Pollution Control Boards, including that of the Chairman, have been taken advantage of by governments in making appointments in an arbitrary way. As a result of which it is not uncommon to find a political appointee presiding over the destiny of a specialized agency of State. There is instance of a State Government going ahead with the appointment of a person as the Chairman of the State Pollution Control Board, mainly because the Chief Minister and the Minister of Environment and Forests of the State willed it that way. This was in spite of adverse remarks passed over the person in question by the authorities within the department and found unsuitable for the position by the Expert Committee, constituted for the purpose of making recommendations for the appointment of the Chairman. When this snowballed into a case before the High Court, the latter issued strictures against the government for arbitrary exercise of power with a direction to make a suitable appointment in place of the incumbent.
Another factor that is responsible for the environment enforcement agencies being viewed in poorer light is the phenomenon of several major industries like, Coal, Petroleum, electricity, iron and steel, agro-chemicals and heavy industries in the near exclusive control of the public sector-Government-controlled, operated and managed enterprises—with heavy government representation in their Boards. Since the top brass of state administration occupy positions of authority in them, there is marked reluctance on the part of the enforcers of environmental laws, who, invariably occupy lower rungs in the echelons of administration, in displaying the required administrative will in bringing to justice the deviants in the public sector.

7.5 Centralized and Non-Participatory Power of Decision-Making

The major problem with the law and its implementation concerning the environment, is the tendency to centralize power of decision-making. This, as a matter of fact, has turned out to be inimical to good environmental governance. It is quite understandable if the policy-making power is centralized with an apex expert group.

But, as a matter of fact, the problem lies in the bureaucratized structure that is at the helm of affairs in the form of the agencies of the Central Government, which has the final authority of deciding on all aspects of environmental management. While scope exists for the involvement of experts bodies in aiding, advising and to make recommendations, the Central Government is, in the existing scheme of things, neither under a compulsion to put into effect what it gets from expert advice, nor for that mater, under an obligation to give reasons as to why its decisions differed from the advise received by it. Rule –making laying down procedures for implementation and the power to issue directions to protect, maintain and improve the quality of the environment are all vested in the Central Government. Scope
only exists in the law for delegation of powers of implementation as to different aspects of environmental administration.

In making such a provision, care has been taken to ensure that the delegatee has to be nominated by the Central Government, the parameters of its functioning clearly spelt out by the latter and that would perform its assigned functions, under the direction, authority and supervision of the Central Government. The Centralization of power is so much that even the subordinate legislation under Environment Protection Act, framed by the Central Department of Environment and Forests, override any other Central or State legislation. The Central Government wields immense powers of decision-making as to every conceivable aspect of environmental management. Environmental clearance as to major developmental activities require central clearance. De-reservation of reserve forest or use of forest land for non forest purpose is possible only with the prior approval of the Central Government. The current thinking as to administration of the pollution control regime, on the part of the Central Government appears to be in favour of arming the Central Pollution Control Board with many of the functions that are being exercised by the State Boards.

Some of the recent initiatives in decentralization by the Central Government have been less than sincere efforts in empowering the environmental administration at the grass root level. The Joint Forest Management programme, for instance, enables the local village community to manage forest lands under the directions, supervision and authority of the forest department. It is more of a benefit-sharing arrangement, for the services rendered, in lieu of payment of wages for the labour. Developmental decisions affecting the environment are taken, both at the Central and State levels, by cursorily going through the processes of Environment Impact Assessment and Public Hearings.
They are mainly aimed at going through the formality of giving some information to the local community of a proposed developmental activity and to hear their objections.

7.6 Poor Quality of Planning, Vigilance and Maintenance of Records

Laws get enforced without the requisite preparation of planning, documentation and constant surveillance. Pollution Control Boards are, at times, guilty of issuing consent orders without prescribing norms or ensuring capacity to comply with standards. In a case decided by the Karnataka High Court, it was found that the State Board had granted consent for stone crushing operations without examining its potential for environmental damage. The consent order was challenged on the ground of the adverse impact of the operations on the health of the residents of the locality and the crops grown nearby. The court, though its direction, educated the Government about the need for immediate formulation of a policy and a plan of action to regulate the business and identify ‘safer zones’ for stone crushing operations.

The administrative machinery is guilty of poor maintenance of records. The official records, instead of being a fund of up-to-date information, remain indifferently maintained. Detailed information as to the nature of activity, kinds of discharges resulting from operations, safety and precautionary measures as to potential mishaps, instances of violations and actions taken do not even routinely find space in the Registers of the Pollution Control Boards. The series of orders passed by the apex court in _T.N. Godavarman Thirumukpad v. Union of India_ exposed the ill-equipped feature of the forest and wildlife administration in the country. It brought to light the inadequacies in the official records as to various categories of forest and wildlife areas and the extent of encroachments in relation to them.

In the absence of making available information, on a regular basis, about different aspects of environmental management, the task of bench-
marking or evaluation the potential and performance of different aspects of environmental management, the task of bench-marking or evaluating the potential and performance of difference agencies of environmental administration is made all the more difficult. This also makes it difficult for the ordinary member of the public to make use of the available avenues for seeking and securing environmental justice.

7.7 Extremities in the Policies of Sentencing

The sentencing polities under different environmental laws swing from one extreme to another –from being too liberal to the other extreme of being too exacting. Both have had negative impacts in terms of effectiveness of enforcement. At one end of the Spectrum are the pollution-related laws. The Environment Protection Act provides a fairly sever set of penal sanctions. The effect of this stringent regulations is both nullified and rendered redundant by another provisions in the same Act which states that if any act or omission constituted an offence punishable under this law as well as any other law, the offence would be liable only under the other law and not under EPA. Both Water Act and Air Act provide for relatively lesser punishment for the same offence. The result is that the stringent penal sanction under EPA becomes non-operational.

At the other extreme are the penal provisions under Wildlife Protection Act, 1972. The rigour of the regulations and restrictions under the law are so severe, that when once anybody gets booked for violations, it becomes almost impossible to secure acquittals. Since the law is stringent, the incidence of detection of crime and charging one for violation of the provisions and taking the route of courts of law for bringing the offender to justice are not a regular, everyday, routine occurrence. Even the courts of law expect strict compliance of procedures, adducing of evidences beyond a shadow of doubt and resort to strict construction of the penal provisions. Thus the rigour of the law makes securing of convictions quite rare and even
when the offences occur, they get underground or enjoy patronage of the mafia and corrupt administration. Little wonder that convictions for violations of the law, all over the country, are few and far between.

All the factors discussed above is symptomatic of the order of things in every domain of this important government department. In this context talking about jurisprudence can be regarded as a far-fetched through. Rather the legal dispersal must become the sole aim as for now. Still the nation can count on creative justice delivery mechanism coupled with creativity in the judicial interpretation can leap frog India into the realm of jurisprudence with out the inter-regnum hiccup of undergoing through the strain of conventional evolution.

7.8 Judicial Facilitation of Good Environmental Governance: Complementing and Catalysing Enforcement.

The enquiry, more specifically, as attempted in this chapter, is to find out whether the Courts of law have played a complementary role as to make the environmental administration more effective and efficient. The higher judiciary has, as could be seen form the following, often times, supplied the details of procedures to be adopted in implementing a law; overseen the stages and processes of enforcement; clarified doubts as to the circumstances when the discretionary power of administrator be put to use; facilitated inquiry to enable the enforcer find facts and with the help of expert advice, strengthened implementation in a more effective way.

7.9 Judicial Innovations

Innovativeness, in putting to use the existing tools of justice delivery to facilitate better administration, has been the hallmark of judicial intervention over environmental issues. Reference to the following devices employed by the Courts, by way of illustration, would substantiate the observation:-
7.10 Guidelines for Implementation

By setting a detailed set of procedural guidelines for implementation, the Courts have constructively contributed for better enforcement. This can be illustrated by reference to what the Gujarat High Court evolved in relation to Public Hearing process. The notification on Public Hearing, was devised by the Minister of Environment & Forests, Government of India, to provide an opportunity for the local people to get to know about and participate in the progress of decision making over developmental activities that are likely to affect their lives. It involves a specific process of eliciting suggestions, views, comments and objects by all the concerned. Existence of wide discretionary power in favour of the district administration in the choice of the method and manner of conduct of the process had resulted in its abuse and neglect. These, at time, gave the impression of enactment of a farcical drama. This prompted a public spirited action group approach the Gujarat High Court seeking its intervention to uphold the spirit of the law. The Court responded positively by enunciating a set of guidelines for proper conduct of Public Hearing.

The order issued by the Court is, indeed, a model for the administration for its clarity and lucidity as to the stages in the implementation of the law on the point. It spelt out with great detail the most appropriate way of going about the process and the nature of preparation required for the same. It covered details as to the most suitable place of conduct of public hearing; the nature of publication of information about it; the kind and the quality of information to be made available for public scrutiny before the commencement of the process; the quorum and the nature of composition of the committee; making available information of the follow-up action leading ultimately to providing the gist of the environmental clearance and the like.
While the primary obligation of working out the details of procedures for implementation remains with the administration, inconsistency and non-uniformity in their adoption and the cavalier attitude in the organization of the activity in its entirety compelled the court to intervene in working out the details of procedure. The outcome was, indeed, a welcome one as it enabled the administration to minimise arbitrariness in the Public Hearing process.

7.11 Continuing Mandamus

In any given case, as a general rule, once the judgment is passed it is left once the judgment is passed it is left to the administration to execute the judgment so as to give effect to it. In the judgment, though the court issues directions to the agencies of the state as to how its decision has to be implemented, it will not be there to oversee its actual execution. Nor, would the court examine the nature of its impact. The enforcement agencies, in a number of instances that involve public interest, are found to have taken advantage by postponing or not implementing decision, under one excuse or another.

It became a common phenomena, compelling the very people who successfully fought the case earlier, to approach the court again and again to activate an unwilling and recalcitrant administration in order to give effect to the judgment. So, while the judgments on a number of litigations in public interest were hailed as pathbreaking, the misery and suffering of people, to ameliorate which the court was approached, continued unabated, complacency, indifference and causal approach to human problems continued without much perceivable change, notwithstanding great judgments. This promoted the higher judiciary in recent times, to come up with yet another innovation: continuing mandamus.

The technique adopted by the court is quite simple. Instead of passing a judgment and closing the case, the court would issue a series of directions
to the administration, to implement within a time-frame, and report back to court from time to time about the progress in implementation. This, in a way has helped people not turn cynical to landmark judgments, rendered un-implementable or suffering the ignominy of non-implementation. The other advantage, more importantly, has been the extending of scope for the administration to be strengthened with the direction of the court, at every stage and clear the hurdles for effective implementation. This has further opened the avenue for the administration to plead with the court to revisit and modify is earlier directions, to make them more effectively implementable.

7.12 Finding Facts

With the relaxation of procedural requirements in presentation of petitions in public interest, the higher judiciary began receiving complaints that required further probing, to be entertained as cases fit for its consideration. The administration in question, under such circumstances, were either not forthcoming or found themselves deficient in supplying the required information for the court to arrive at a decision. In order to enable the administration to keep their records upto date, while deliberating to take developmental decisions and function effectively, the courts began instructing the government to appoint fact-finding bodies and to follow it up with action or receipt of the report.

In Banwasi Seva Ashram v. State of Uttar Pradesh, the complaint concerned efforts in the eviction of the inhabitants of the forest area by the Government, ignoring their claims, with the ostensible object of creating a reserve forest. The Supreme Court instructed the State Government to constitute a high Powered Committee, to investigate the claims. Dubing the already existing one as a biased committee, it ordered for a new one to be put in place. It even gave suggestion as to the composition of the body, so

\footnote{AIR 1987 SC 2032.}
that it acted objectively and impartially. Upon being informed by the State Government, of making available the land under contention to the National Thermal Power Corporation (NTPC), the Court allowed for such a transfer only after extracting an assurance from the latter to provide certain facilities approved by it. The Court set out in detail the kind of safeguards to be taken to rehabilitate the oustees. The rehabilitation package evolved by the highest court, indeed, became a model for the NTPC to later develop its own policy of Resettlement and Rehabilitation.

7.13 PIL, Human Rights & Environmental Justice

The constant increase in policy and administrative interventions of the higher judiciary is due to a variety of factors like reposition of confidence in them by the litigating members of public, as the final resort of justice; as a matter of sheer necessity to activate and make the administration function well and as an aspect of its legal and constitutional obligation of rendering justice. The most commonly used vehicle for this purpose has been the instrument of Public Interest Litigation (PIL). This has been by the large, a post-Emergency phenomenon in India.

The National Emergency declared in 1975 suspended all the Political and civil rights of citizens. Soon after the Emergency was lifted, a group of activist judges at the highest court, in their attempt to reassert the institutional credibility as the protector of people’s rights and to curb excesses of State, through the device of PIL, virtually opened the doors of the court entertaining petitions in public interest. The inspiration to India judiciary for the employment of this tool was, indeed, the post-World War-II liberalism and the board-basing of public interest law actions by the Supreme Court of United States.

More specifically, the manner in which Chief Justice Warren dealt with the problems of desegregation, discrimination and zoning through affirmative action in Brown v. Board of Education, is believed to have given
the required impetus for Public Service Lawyering everywhere. In course of time, PIL encompassed a wide range of issues including problems concerning environmental protection. The contributions of the India Supreme Court, followed and developed by the High Courts in different states, in this regard, is perceived as a broader judicial commitment to rectify the failure of other branches of government.

It must be noted here that while the higher judiciary in India is still expanding its pro-active environmental friendly jurisdiction, its counter part in the U.S. is in retreat, as evidenced in the case of Steel Company, AKA Chicago Steel and Pickling Company v. Citizens for Better Environment. The Supreme Court of U.S. denied standing and refused to exercise jurisdiction to a citizen suit for violations in the part by industries that failed to the file timely reports of storage of toxic and hazardous chemicals. The analysis of the use of the PIL device by the courts of law, for rendering environmental justice, attempts to highlight its positive and negative features.

7.14 Positive Aspects

The positive impact of judicial intervention in relation to environmental problems has been such that it has dramatically transformed the form and substance of legal landscape in India. It has impacted the characterization of individual and collective rights guaranteed under the Constitution and the procedures established by law and practice in accessing them. This has also been responsible for creation of evolving new rights, approaches and principles to secure them.

After all this discussion we come to a scenario, when there is need for this approach of jurisprudence developed in the psyche of common people so that they can appreciate a balanced approach towards development that caters for the holistic and long terms sustainability.
In this context, we will discuss here the importance of environmental education in India. Presenting with two models, one being of US and the other that of Indian will bring forth a macro-cosmic viewpoint regarding the development paradigm of two nations so different in their developmental phase yet connected with their desire to make ecology the centre-point of public discourse.

7.15 Environmental Law Education-Better Strategy and Curriculum Preparation

In the present day world, industrialization is the key to national progress. Industrialization brings with it many problems of environmental pollution.

Accelerated industrial growth aggravates the problems of environmental deterioration. The need for industrialization linked or coupled with the need for pollution free environment raises a public problem. Industrialization with a reasonably clean environment requires a proper environmental policy formulated on a rational evaluation of environmental preservation and pollution control. This leads to the need for a proper environmental impact assessment of industrial projects.

Better strategy and curriculum preparations, Environmental Impact Assessment is a process of evaluation and prediction further changes caused by proposed projects, plans or policies to the quality of environment. It coordinates the administrative bodies and agencies to choose correctly from among the various opinions for making environmentally such decisions. The projects or policies may be either modified, altered or abandoned when the assessment are found likely to result in significant adverse effects upon the quality of environment. It is a technique not only for identifying potential damage but also for probing method of preventing such image.

Countries like U.S., Britain, USSR, etc, have given greatest importance to Environmental Impact Assessment through the concept of
public participation in the arena of environmental protection. The form and methodology of participation may vary to each other. But these countries have accepted and adopted the principles that the public should be involved in the diverse processes having environmental implication. The impact of project upon a neighbouring country is another dimension in the environment decision making process. It is true that every state has the sovereign right to exploit the resources within the territory pursuant to its own environmental policies, suppose that certain activities within the jurisdiction of control of a state are likely to cause damage to environment of other nations.

The Stockholm Declaration has emphasized that it is the responsibility of every nation to ensure that this does not happen. In the United States a presidential order issued in 1979 emphasizes the need in a more explicit and meaningful manner. It says that Environmental Impact Assessment is necessary if a major federal action significantly affects the environment of the global commons; the environment of the foreign nations or the natural or ecological resources of global importance.

The environmental Impact Assessment process varies from nation to nation. It can be broadly classified under two heads.

(i) The Statutory Mandatory Model
(ii) The Administrative Discretionary Model.

In the mandatory model, the scope nature and limits of discretion and the procedure in which the impact assessment is made are government by legislation. These may be specific or delegated legislation obliging the decision-maker to assess the impact or review the assessment. In the administrative discretionery model all matters are left to be decided by the administrative agency and are controlled by only exact policy, administrative discretion and political expediency.
7.16 U.S. Approach

National Environmental Policy Act of 1969 called (NEPA) is a remarkable legislation in the United States representing the best example for statutory mandatory model of Environmental Impact Assessment. Among the notable provisions of the legislation, the one declaring environmental policy and the other emphasizing the need to prepare Environmental Impact Statement (EIS) are significant. NEPA has established the Council on environmental quality to investigate and report environmental quality, advise the President, gather information and co-ordinate agencies, activities and issue guide-lines. The NEPA Act provided that before they take up major federal action significantly affecting environment all Federal Agencies should prepare an Environmental Impact Statement (EIS). In other words, in the U.S. this process is called Environmental Assessment.

The Environmental Assessment is a public document which acts as the basis for Environmental Impact Statement. The Environmental Impact Statement as it is popularly called contains in addition to the environmental impact of the proposed action, other details such as any adverse environmental effect. Relationship between local short term use of man’s environment and maintenance and enhancement of long terms productivity and any irreversible and irretrievable commitments of resources would be involved in the proposed action.

Environmental Impact Statement is prepared after consultation with experts state agencies and general public. The publication of Environmental Impact Statement affords the public an opportunity to comprehended the environmental impact of proposed project. This provides the public with an opportunity to acquaint themselves with the environmental consequences of the proposed action. Transferring the process of Environmental Impact Assessment into the most powerful weapon in the hands of public against
any environmental assault in 1970, the presidential order exhorted the federal agency to developed the impact procedure in such a manner as to ensure timely public information, elicit view of interested parties, provide for public hearing an to encourage state and local agencies to adopt simulacra procedure. Active public involvement has grown in US as the main feature of environmental decision making process whether it relates to standard fixing in air, water quality, and highway location.

7.17 Indian Model

In India, there is no specific legislation for mandatory environmental impact assessment of projects having significant effects on the environment. However, the approval of Ministry of Environment and Forests and Planning Commission is needed and relevant of Environmental Law is necessary for execution of a few major projects. But with he scant manpower and facilities to assess each project the Ministry may not be in a position to come out of this watch dog function in relation to thousand of project, proposed through out the country. Only if it is called up to do, the Ministry comes to the picture, it does not utilize services of outside experts nor can it look into the project proposed by private agency.

7.18 Elevating Environmental Problems to the Status of Violation of Fundamental Rights

The credit for the creation of a host of environmental rights and enforce them as fundamental rights, goes to the higher judiciary in India. This is very significant, as one learns from experiences elsewhere. The legal system may guarantee a Constitutional right to Environment and statutes may accord the right to participate in Environmental protection. However, when no tools for their protection is made available then they are as good as non-existent. This is the experience in Spain, Portugal, Brazil and Ecuador. Indian experience contrasts very significantly from this. The is no direct
articulation of the Right to Environmental anywhere in the Constitution or, for the matter, in any of the laws concerning environmental management in India.

But this has been seized from below, by activist lawyers, motivating the courts to find and construct environmental rights from the available legal material. The salutary effect of such an articulation is of insulating the right, like any other fundamental right, from any legislative prescription or administrative action leading to its violation. Constitutional remedies, in the forum of writs, are available for any violation of the right. One may approach the higher judiciary directly by challenging the state action for its violation. What the courts have achieved in a little over a decade and half, is to view the fundamental right to life to include different stands of Environmental Rights, that are at once individual and collective in character.

7.19 Expanding Horizons of Human Rights- A Model for Environmental Jurisprudence

The courts, in the protection of the environment, through the device of PIL, have not found themselves shackled by the need to tag on to human rights alone. As a matter of fact, they have used human rights as a just vehicle to drive home the point of the close nexus between protection of environmental and human rights, unplanned economic activity that would affect either of the two have drawn court’s censure. This approach encompasses conservation of specific eco-systems, protection of other life forms and a holistic perspective of environmental management.

Protection of lives of birds, animals and wildlife and prevention of injury to them, both under Wildlife law and as an aspect of Environmental right, have engaged the attention of the superior Courts. Trading in articles of ivory, according to the court, under the Constitution, was akin to the pernicious activity of dealing in drugs and intoxicants. Trade and business at
the cost of disrupting life forms and linkages necessary for the conservation of biodiversity and ecosystems, invited judicial censure and prohibition.

When the environmental right apparently conflicted with certain fundamental rights, especially the freedom of trade, profession or calling, the courts have interpreted that the enforcement of public healthcare measures of ordering the closure of industry for the release of polluted water into streets, as a reasonable restriction in public interest.

7.20 Recognition of Customary Rights

The PIL tool has been employed by the Courts not just to enhance the status of a statutory right to that of a fundamental right, but to accommodate even traditional and customary entitlements to that status, as well. Thus, while in Gujarat, the diversion of a common grazing land was stalled and in Uttar Pradesh, the meadows and pasture lands in Garhwal region were prevented from being put to use to construct tourist lodges.

7.21 Protecting the Interests of Tribals and Conserving Forests

At times, the judiciary, through their imaginative interpretation of laws, has been able to harmonize the interest of the forest-dwelling community with that of the concerns for conservation of the forests. In Fatesang Gimba Vasava v. State of Gujarat, the legally recognized right of the tribals to obtain bamboo and earn livelihood by selling the articles made out of them, was attempted to be rendered unenforceable by the forest department officials by barring their transport from out of the forest area. The alleged motive of the action was to compel the forest dwellers to sell raw bamboo to the local paper mill. The court ordered that the forest department should not interfere in the transit of the bamboo articles from the forests to non-forest areas.

AIR 1990 SC 1521.
In another case, the Andhra Pradesh High Court stuck down a government order that permitted felling of trees and transport of timber from the forest area that was in contravention of law. The court reasoned that the statutory provisions were intended to safeguard the interests of Scheduled Tries and to preserve forests. The executive order that violated this law was valid.

7.22 Promoting Rights to Environmental Information

While the constitution guarantees the fundamental freedom of Speech and Expression, no such guarantee exists for right to information. Right to access relevant and authentic information is very crucial over environmental issues. It enables one to know and understand about the kind of impact any activity would have on his environmental besides forewarning about mishaps, helping in taking precautionary measures and facilitating participation in the processes of environmental planning and decision-making. In the absence of a clear legal articulation of such a right, it was left to the Courts to clearly carve out this right as an integral aspect of the freedom of speech and expression. A catena of case law exists that demonstrates judicial recognition of the right of the citizen to know as flowing from the fundamental freedom of speech and expression and the fundamental right to life and personal liberty.

Following on the recognition of a general right to information, the courts soon began getting into the specifics of the Right. In a case that involved rejection of the demands of an environmental action group to access municipal records to examine the legality of certain of the actions of the Pune Cantonment Board, the Bombay High Court held that the right to know was implicit in the right of fee speech and expression. As such, disclosures of information as to the functioning of the government should be the norm and secrecy an exception justified only where the strictest requirement of public interest so demanded, it opined.
Thus, one can access governmental information, without any requirement of proving any irregularity. It would suffice if the group were to establish its bonafides of action. In another case, between the same parties, the Supreme Court extended this right to all persons residing within the area without limiting it to only interest groups and pressure groups.

7.23 Evolving New Principles of Good Environmental Governance

Interpretations of the higher judiciary have been of such a nature as would telescope some of the Directive Principles of State Policy into the Fundamental Rights part of the Constitution, to secure constitutional guarantees, of protection to the Environment. In addition, the courts are also to be credited with the ability of evolving principles, drawn from a variety of experiences, both within India and elsewhere, that has become the building blocks for good environmental governance, in recent times.

The Polluter Pays principle (this principle recently came to limelight in the contest of the US-India Hyde 123 act of nuclear trade), as laid down in the Bichhri case requires that the polluter bears the costs of cleaning up and compensate the victims of pollution. The precautionary principles, as elaborated in Vellore Citizens’ case, imposes an obligation on every developer, industry and governmental agency to anticipate, prevent and attack the causes for environmental damage and to demonstrate that the activities carried out are environmentally benign. In the landmark judgment in Kamalnath case, the Supreme Court enunciated the Public Trust Doctrine. Setting at rest the role of the Government in Environmental management, the court held that the State occupies the position of a trustee of all natural resources. They are, as a general rule, meant for public use and enjoyment. The state has the primary obligation of using them for benefiting the public and not to divert it for any private benefit and enjoyment. The Sustainable Development Principle, found expression in the Ganesh Wood Products Case that combined the principle of Inter-Generational Equity, with it as well.
7.24 Negative Aspects

There is no denying the fact that PIL has enriched the content of the law, modified the traditional doctrine of locus standi and is responsible for deserving new procedures for accessing and securing justice. However, the euphoria generated by the positive impacts of PIL has, over a period of time, exposed the drawbacks in the system of justice dispensation and the processes of accessing it, as well. The following are some of the shortcomings, that deserve consideration of all concerned about Environmental justice.

7.25 PIL as Part of the Problem

The very same factors that justified the public spirited citizens to approach the higher judiciary, have turned out to be the hurdles for justice. Each of the factors like, the relaxation of procedures; doing away with the traditional requirement of locus standi and the very characterization of public interest have become, in a manner of speaking, liabilities for rendering environmental justice. Instances of abuse of the process like, attempting to settle personal grudges or to put undue pressures upon the respondent to do one’s binding, have not become uncommon. What was considered an inexpensive and expeditious mode of redressal has taken decades to get settled. The vehicular Pollution Cases, is a classic example of the court being seized of the problem for over a decade and its final resolution is a long way in coming. The case that began its life in 1985 as a petition seeking the intervention of the Supreme Court for closure of hazardous industries and to regulate air pollution caused by automobiles in Delhi, has grown into a case of mammoth proportions and mired in controversies of administrative lethargy in implantation of the court’s orders and political defiance bordering on contempt.

Taking advantage of the Superior Court’s non-insistence on observation of technicalities, PILs are being filed with little or no
preparation. Actions are initiated by filing complaints without proper evidentiary materials to support them. Expectations are that once a petition is filed, the court would do the rest. That, it would activate the administration, approach research bodies to suggest solutions, appoint commissions of enquiry to find facts and, when there are difficulties in the presentation of argument, it would find a counsel to argue for the petitioner or, still better, act as an amicus to help render justice True, the courts have done all this and much more. But, the heart of the matter is that most of the time, energy and resources of the judiciary is getting diverted for these purposes, so much so that the justice delivery system is under great stress and the cracks in it are becoming visible.

The highest court, has shown its annoyance at taking every conceivable public interest issue to its door-step when compliance with the orders made at the local level, in most of the cases, would have prevented the docket explosion at the highest level. As early as in 1980, in the Ratlam Municipal Council case, the Supreme Court upholding the orders of the Sub-Divisional Magistrate, expressed thus in unmistaken terms. Had the Municipal Council, the Court stated, spent half its litigative zeal of rushing from lowest to the highest court, in cleaning up the streets and complied with the orders issued at the local level, the civic problems would have been solved a long time back.

7.26 Individualistic Character

PILs as a general rule, are fought in public interest and decided for protecting the interest of a large number of people. But, there are certain alarming and emerging trends. One of the tool becoming personalized, individualistic and attention-seeking. There are instances of their identification with the personality of a judge or a litigant. It becomes a gamble when the outcome of the case depends on the judge before whom it gets posted. No doubt, the personality of the judge and the litigant, and their
deep commitment to social justice and protection of the environment contributed, in a major way, to the evolution of the jurisprudence on the subject. But, without such a concern and commitment spreading and percolating to the different layers of justice-delivery, administrative arrangement and legal policies, in any significant way, it exposes the system to the dangers of facing a vacuum (in their absence) and becoming influenced by different whims and fancies that may pull governance in every possible direction. As a matter of fact, owing to this factor, Environmental legal advocacy, in India is getting exposed to this situation.

**7.27 Scope for Arbitrariness and Inconsistency**

Another danger of the phenomenon is the scope for arbitrariness and inconsistency in the entire process. Once the PIL process gets identified with certain judges and practitioners of law and the kind of impact their approach would have on the course of justice, it becomes very difficult to expect consistency and uniformity, both in approach and final outcome in similar cases argued and adjudicated in all other similar cases. The Narmada Judgment, perhaps, presents a study in contrast, especially for the approaches adopted and the conclusions drawn for the majority (of two) and by the minority (dissent of one) in the Supreme Court. The Judges dealt with the same fact situation and profusely referred to the very same grounds. But, in the end, opinions differed between the majority and the minority. While the former approved of the execution of the proposed development project for greater common good, the dissenting opinion desired a thorough review of the entire decision-making process.

The Supreme Court, in a stunning judgment ordered shutting down of a number of hazardous industries in Delhi and relocated them beyond the capital city. The sweeping closure orders appears to have improved the air quality and reduced risks to public health and safety in those parts of Delhi. But, the impact on the work force, was nothing short of being traumatic.
The court order was used as an excuse by some of the managements to close their ailing establishments and to postpone payment of compensation under some technicality or another, till clarification by the Supreme Court, two years hence, upon an application from the aggrieved workmen. In a later case, the apex court further clarified as to the obligation of the corporate entity to take all such precautionary measures as are required to ensure their activities did not cause harm or alarm in their establishments to such places where the residential areas could be kept wide apart from their location. It is interesting to observe the earlier version of the same case, in the Bombay High Court produced a different kind of reasoning, diametrically opposite to the one adopted by the Supreme Court. There, the High Court rejected the contention of the petitioner to relocate the hazardous industry. The reasoning included, the need for locating an industry in close proximity of the area where the infrastructural facilities are available, that the dislocation would render thousands of workers jobless and make them suffer the situation demanded getting satisfied with taking appropriate safety measures in and around the place they are located.

7.28 Problems Resulting from Reliance on Expert Opinion

In dealing with the complexities of environmental issues, the higher judiciary has taken the initiative of seeking and obtaining expert advice to help them arrive at a decision. But there are instances when the opinions so obtained are either based on erroneous assumptions or insufficiency of data. In either case, the damage resulting from the decisions based on shaky scientific foundations may prove irreversible. The Taj Trapizium case may be cited to illustrate this point. In that case, in order to save the framed Taj Mahal from pollution and degradation, the Supreme Court, relying upon the report of NEERI, ordered closure and relocation of several small-scale units, especially the foundries in the area. The report, unfortunately was not based on all relevant facts and its methods, analysis and conclusions left a lot to be
desired from a reputed scientific and research organization. While the implementation of pollution-control measures ordered by the court is proceeding at a tardy pace, the small scale sector which bare the brunt of the judgment is still to recover from its impact.

The Vehicular Pollution Cases presents another interesting, if no perplexing situation. While the Court ordered for conversion of vehicles to operate on Compressed Natural Gas (CNG), based on the expert opinion made available to it, the Tata Energy Research Institute (TERI) subsequently came up with the idea that Ultra-Low Sulphur Diesel (ULSD) could be a better option. As things stand now, the Delhi Administration has not, as yet been able to fully implement the orders of the apex court.

7.29 Non-Exhaustion and Neglect of Other Remedies

Remedy for public suffering has been sought, with great degree of regularity by approaching the higher judiciary by taking recourse to the writ remedy. Non-technical nature of procedure, expeditiousness, economy, limited requirement of adducing detailed evidence and reduction of the likelihood of prolonged litigation in appeals by directing approaching the highest court, have all contributed to this astounding phenomenon in India. But, the downside of it has been the blunting of other available tools of justice which, perhaps, are more appropriate and effective than the PIL route could achieve, at times.

It must be realized that the relief through PIL is general prospective and, as a general rule, without compensation. On the other hand, in individual and private actions remedial orders are case-specific in nature and conclude with tangible and concrete results with clear directions for actual implementation. The Civil Procedure Code (CPC), provides scope for Class Action Suits or Representative Suits in which a number of people, having similar interests can bring action at the lower court level. Such lawsuits enable clustering of issues and presentation of petitions and responses on
behalf of a number of persons having the same interest. No separate lawsuit for each one would be required and the litigation cost could be shared by all the members of the group. Scope for adducting detailed evidence, through this process lessens the strain on the judges, which a writ process invariably imposes. This device can be employed in instances where mass torts occur, as attempted by Government of India on behalf of the victims of Bhopal Gas Disaster. This was also initially employed in the Ganga Pollution (Tanneries) case, in proceeding against a number of polluters. Remedies available under specific environmental legislations, the common law and criminal law remedies are the other alternative avenues for justice delivery that could be prompt and effective. PIL process has been so abused that these option are scarcely put to use by all the concerned.

There is another danger of directly approaching the highest court. Since, in such cases, the outcome of the case is entirely dependent on the whims and fancies of the particular judge, should an adverse opinion be given by the court, it would mean the end of the road for the seeker of justice, as there is no one to receive further appeal. It would bring to an abrupt end the quest for justice without its realization.

7.30 Limits of PIL and the Formal Legal Process

PIL is not always a smooth path to tread. Limits exist to the extent to which the law, its processes and the machinery of enforcement, even when it is positively inclined, can enforce duties, protect rights and secure redressal. This indeed, is the limiting factor of law itself. Habits, attitudes, patterns of behaviour and the like do not get altered overnight, even when the highest authority demands. PIL is more of a fire fighting mechanism. It cannot be expected to bring attitudinal change every time it is employed. Executive decisions do find a method of circumventing court orders, as to ensure that the ground realities do not get altered. Corporate entities have, time and again, demonstrated that they are adepts in taking advantage of situations,
even when decisions apparently unfavourable to them are made. This is very well illustrated in the follow up on the decision of the Supreme Court ordering relocation of hazardous industries. It required another order of court, that too two years hence, to redress the mischief of non-payment of compensation to the workers by the employers upon closure of the industries. It is true that the courts have devised the technique of continuing mandamus to appraise themselves of satisfactory compliance of their directions from time to time. But, it must be understood that this is intended to make the administrators and the addressers of the orders realize that their actions are being constantly monitored judicially.

The courts have not, as yet, evolved a mechanism for ensuring compliance with their directions both in letter and spirit, for all times to come. They do not have the tool that would assess the quality, content and level of compliance of their orders. Moreover, their time is so stressed that they cannot even think of monitoring, on an individual basis, whether the instructions are indeed observed.

Even the practitioners of law, who take up public interest issues, pro bono (without charging a fee) are hard to come by. The work is enormous. It is back-breaking as, they are required to start from scratch without a ready-made case brought before them to argue. Environmental legal advocacy requires a very high level of understanding of this emerging area of law and not many are there in India in taking up the challenge and successfully argue the cases before the higher judiciary.

Further “public interest” is not something that is homogenous and common, in the Indian context. There may exist divergent interests even among the claimants like, for example among the people threatened with displacement for the execution of a development project, some of them may be satisfied with monetary compensation, some with alternative employment and others desiring to stay put and fight till they are totally rehabilitated.
Some of the principles enunciated by the Supreme Court are either vaguely formulated, a little confusing or not capable of implementation in its totality. The “Absolute Liability” principle formulated in the Shriram case referred to liability without fault upon the occupier of the premises for industrial accidents, escape or discharge of toxic substances.

The principle was sought to be applied in the Vellore Citizens’ case, which did not involve any of the situations for which it was first applied. The latter case, rolled together the polluter pays principle’ (applicable to non-toxic pollution cases) with the absolute liability standard (applicable to toxic torts). In the Bichhri case, the “polluter pays principle” extended the absolute liability for harm to the environment not only for compensating the victims of pollution but also the cost of restoring the environmental damage. The legal logic, apparently, has been stretched too far as to make it very difficult to implement.

Neither the legislature, nor the executive has taken kindly to this “judicial take over” of their functions. This assumption of “creeping jurisdiction”, has not found favour with many of the judges themselves. In *Asif Hameed v. State of Jammu & Kashmir,* the Supreme Court asserted that the constitution does not permit the court to direct or advise the executive in matters of policy or to sermonize on matters that lie within the spheres of activities of the legislature or executive. In the Calcutta Taj Hotel Case, Justice Khalid advocated judicial restraint in PIL, so that the salutary type of litigation did not lose its credibility.

### 7.31 Need for Fresh Initiatives

It is humbling feeling that PIL, that started its life in India, to straighten and tighten the system of governance has, over a period of time, owing to some of its inherent weaknesses, not retained many of its therapeutic and curative qualities. PIL, as the highway for judicial justice, is

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experiencing a lot of wear and tear exposing many a pot-holes all along the way. Besides redefinition of its goals and relaying of lanes that lead to them, a number of alternatives has to be evolved to supplement and strengthen the principal mechanism of environmental justice delivery.

The aberrations leading and resulting from environment justice delivery by courts of law, require a fresh look at the system of environmental management in India. It has become a common occurrence for State administration and the Voluntary groups to take turns to question the competence of the judiciary, each time its verdict did not meet either of their requirements. Taking the cue, the lawmakers, law enforcers and voluntary groups are constantly endeavouring to device mechanism to rein in the courts of law. The judiciary on the other hand appears to have done everything to add fuel to fire. It is time for a constructively critical evaluation of the environmental justice delivery breaks fresh ground for better environmental governance in India.

Thus, we can conclude that Environmental law enforcement, being a highly specialized area of implementation is entrusted to different agencies under different laws. But there is lack of skill, unsatisfactory infrastructural facilities, poor understanding of the law, jurisdictional conflicts and lack of co-ordination among different agencies which has contributed to ineffective and inefficient enforcement and implementation of environmental laws which should be strengthened.