PREFACE

In India, the situation is not different. Reportedly, almost all the Indian river waters are said to be polluted, due to unplanned and ill-conceived attempts to achieve socio-economic development. Air, land and other components of the Natural environment are also not spared from this menace. In spite of imposing various inhibitions on the carrying of industrial and other activities of production and consumption of goods and services whether natural or man-made, under international and national laws and policies, the attention of the people in general and the people in the helm of affairs of the State is not as specific as it ought to be. In such a situation, it has become inevitable for the country’s judiciary to interfere into the executive role of the State by rendering land-mark judgments by effectuating its judicial activism for saving the Indian environment from the problem of degradation.

Indian judiciary has opened new vistas and new aspirations in the arena of environmental and ecological protection for the overall progress of the mankind, keeping in view not only the present but also the future requirements. It has opened a new era of Public Interest Litigation (PIL) permitting any public spiriting person or body of persons to knock its doors as and when any issues of pollution of environment are witnessed or
anticipated, by approaching it either under Article 32 or 226 of the Constitution of India. Indian Judiciary has recognized that pollution of environment is violative of the Right to Life enshrined under Article 21 of the Constitution of the India, and that the State as well as the people are under a Constitutional duty imposed under Part IV and Part IV-A of the Constitution to protect the environment. It has also declared that the freedom of trade guaranteed under article 19(1)(g) of the Constitution is not an absolute right, and that a person, company or body of persons who pollute the environment are absolutely liable to pay compensation to the victims and costs to restore the disturbed environment.

A principles underlying environmental law is that of “Sustainable Development”. It requires that development should take place in a manner whereby the ecology and the ecological elements live and allowed to be living in the future. The two essential and legally well-settled principles upon which the sustainable development depends upon are the “Precautionary Principle” and the “Polluter Pay Principle”. Thus, “Sustainable Development” is the pivot which connects the two wheels of progress, i.e., economic development and environmental protection, both aimed at the progress of and prosperity of human and other beings, and that absence of any one of these will not permit passing through the path of progress.
ACKNOWLEDGEMENT

I am grateful to Dr. Tribhuvan Shukla Reader in Law faculty of Kamta Prasad Sundarlal Saket P.G. College Ayodhya, Faizabad for the able guidance and inspiration given to me during the gestation of this thesis.

I am also grateful to Dr. Ram Avatar Singh (Principal T.D. College of Law Jaunpur) for his encouragement and proper suggestion given to me from time to time which helped me to complete this task.

I am grateful to Sri L.P. Gupta (Ex reader head in Law, Department of Harishchandra P.G. College Varanasi, for his encouragement and proper counsel given to me from time to time.

I am extremely grateful Dr. H.P. Singh (Reader in History Department of Mariyahu P.G. College Mariyahu, Jaunpur), Sri Harivansh Dixit Muradabad, Dr. S.K. Singh (President of teachers Association,R.M. L. university Faizabad), Dr. M.D. Chaturvedi (Ex reader in Law, Department of T.D.P.G. College Jaunpur), Dr. Raj Mani Mishra (Ex-Head of Law, Department in T.D.P.G. College Jaunpur) and sri Kamlesh Shukla (Ex-Head of Department in T.D.P.G. College Jaunpur), whose spiritual help and better inspiration instinct me to complete this task.

I am extremely grateful Sri R.P. Singh (Manager of M.K. Law College Chahaniya) and Sri D. Singh
(Director of M.K. Law College Chahaniya), for his encouragement and proper counsel given to me from time to time which helped me in this work.

I must take this opportunity to express my profound gratitude to my Shraddhai Gurujanbrind Sri I.J. Singh, Sri Vijay Singh, Sri Shri Ram Singh, Dr. P.C. Vishwakarma, Dr. S.K. Singh, Dr. T.B. Singh and Dr. R.D. Patel.

I am expressing my humble to my Parent Shri Lal Bhadur Srivastava & Smt. Sushila Devi Srivastava who always inspired me to complete this research work.


My due thanks to staffs of library of Kamta Prasad Sundarlal Saket P.G. College Ayodhya, Faizabad, T.D.P.G. College Jaunpur, M.K. Law College Chahniya and B.H.U. who provided me proper assistance to complete this research work.

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