CHAPTER-4

ROLE OF CENTRAL POLLUTION CONTROL BOARD, STATE POLLUTION CONTROL BOARDS AND NGOs

The Water (Prevention and Control of Pollution) Act, 1974 has been enacted for the purpose of prevention and control of water pollution. “It came into being at a time when the country had already prepared itself for industrialization and urbanization. The need was keenly felt for the treatment of domestic and industrial effluents, before they were discharged into rivers and streams.” The availability of clean drinking water was becoming a rare phenomenon due to unrestricted and ever growing pollution of streams, rivers and other water sources. It was therefore, expedient to provide for the prevention and control of water pollution and the maintaining or restoring of the wholesomeness of water. In order to achieve this object the Water (Prevention and Control of Pollution) Act, 1974 provides for the establishment of Central and State Pollution Control Boards and enumerates the powers and functions of such Boards.\(^1\)

The Water (Prevention and Control of Pollution) Act, 1974 represents India’s first real attempt to comprehensively deal with an environmental issue. Water is a subject mentioned in Entry 17, List II of the Seventh Schedule, i.e. a State subject. Thus the Union Government had to enact the Water (Prevention and Control of Pollution) Act, 1974 under the provisions of article 252(1) of the Constitution, which permits the Central Government to enact laws on subjects exclusively within state domain, if it can garner consent from two or more states.\(^2\)

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The Water (Prevention and Control of Pollution) Act, 1974 states:

An act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

The statement of objects and reasons of the Water (Prevention and Control of Pollution) Act, 1974 states that the problem of pollution of rivers and streams has assumed considerable importance and urgency and it seeks to ensure that the domestic and industrial effluents are not allowed to be discharged into water courses without adequate treatment.  

Chapter II of the Water (Prevention and Control of Pollution) Act, 1974 deals with the constitution of Central board, State Boards and their functions. According to Section 3 of the Water (Prevention and Control of Pollution) Act, 1974, the Central Board is constituted by the Central Government and is called Central Pollution Control Board. The Central Board shall be considered as a body corporate having perpetual succession with the power to acquire, hold and dispose of property. According to Section 3(3) of the Water (Prevention and Control of Pollution) Act, 1974, it can also enter into contract with any person or party. It can sue or be sued in the name of Central Board.

According to Section 4, the State Boards shall be constituted by the State Government and it shall be called as State Pollution Control Board. Every State Board shall be considered as a body corporate having perpetual succession with the power to acquire,

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hold and dispose of property. It can also enter into contract with any person or party. It can sue or be sued in the name of State Boards.\(^5\)

According to Section 4(4) of the Water (Prevention and Control of Pollution) Act, 1974, no State Board shall be constituted for a Union Territory. In relation to a Union Territory, the Central Board shall exercise the powers and perform the functions of a State Board for the Union Territory. The Central Board, in relation to any Union Territory, may also delegate any of its functions to such a person or body of persons as the Central Government specify.\(^6\)

Several provisions are incorporated in the Water (Prevention and Control of Pollution) Act, 1974, which empowered the central pollution control board and state pollution control board for the prevention and control of water pollution.

Chapter IV deals with the powers and functions of the Central Pollution Control Board and State Pollution Control Board. Section 16 of the Water (Prevention and Control of Pollution) Act, 1974, deals with the function of Central Pollution Control Board whereas section 17 deals with the powers and functions of State Pollution Control Board.

To understand the role of the Central Pollution Control Board and State Pollution Control Board in the prevention and control of water pollution, the powers and functions of the Boards will be discussed in the light of Water (Prevention and Control of Pollution) Act, 1974.

### 4.1 FUNCTIONS OF CENTRAL POLLUTION CONTROL BOARD

The mandate of the Central Pollution Control Board is to set environmental standards in India, lay down ambient standards and coordinate the activities of State Pollution Control Boards.\(^7\)

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6. Id.
According to section 16 of the Water (Prevention and Control of Pollution) Act, 1974, the Central Board has been assigned to discharge the functions as follows:

(a) **Advise the Central Government**

The Central Pollution Control Board can advise the Central Government on any matter concerning the prevention and control of water pollution.

(b) **Co-Ordination with State Board**

Central Pollution Control Board is to Co-ordinate the activities of the State Boards and resolve dispute among them.

(c) **Technical Assistance/Guidance to State Boards**

Central Pollution Control Board is to provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problem of water pollution and prevention, control or abatement of water pollution.

(d) **Training Programme**

Central Pollution Control Board is to plan and organize the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution.

(e) **Organising Comprehensive Programme**

Central Pollution Control Board is to organise through mass media a comprehensive programme regarding the prevention and control of water pollution.
(f) **Functions as State Board**

By the Amending Act, 1988, the Central Board can perform such of the functions of any State Board as may be specified in an order made under section 18(2) of the Water (Prevention and Control of Pollution) Act, 1974 i.e., “power to give directions”-“every State Board shall be bound by such directions in writing as the Central Government or the State Government may give to it.

(g) **Publication of Statistical/Technical Data**

Central Pollution Control Board is to Collect, compile and publish technical and statistical relating to water pollution and the measures devised for its effective prevention and control and prepare manuals, codes or guides relating to treatment and disposal of sewage and trade effluents and disseminate information connected therewith.

(h) **Laying Down Standard for A Stream/Well**

Central Pollution Control Board is to lay down, modify or annul, in consultation with the State Government concerned the standards for a stream or well.

(i) **Execution of Programme at National Level**

Central Pollution Control Board is to plan and cause to be executed by a nationwide programme for the prevention, control or abatement of water pollution.8

4.2 **FUNCTIONS OF STATE POLLUTION CONTROL BOARDS**

In terms of section 17 of the Water (Prevention and Control of Pollution) Act, 1974, the State Board has to perform the following functions:

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(a) **Planning Comprehensive Programme**

The State Pollution Control Board is to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the state and to secure the execution thereof.

(b) **Advisory functions**

The State Pollution Control Board is to advise the state government on any matter concerning the prevention, control or abatement of water pollution.

(c) **Dissemination of Information**

The State Pollution Control Board is to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof.

(d) **Investigation and research**

The State Pollution Control Board is to encourage, conduct and participate in investigation and research relating to problems of water pollution and prevention, control or abatement of water pollution.

(e) **Organising training programme**

The State Pollution Control Board is to collaborate with the Central Board in organising the training of persons engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto.\(^9\)

\(^9\) Id.
(f) Inspection of sewage/trade effluents plants

The State Pollution Control Board is to inspect sewage or trade effluents works and plants for the treatment of sewage and trade effluents, and to review plans, specifications or other data relating to plants setup for the treatment of water, works for the purification thereof and the system of the disposal of sewage or trade effluents or in connection with the grant of any consent as required by the Water (Prevention and Control of Pollution) Act, 1974.

(g) Lay down Standards for Causing Discharge of Water

The State Pollution Control Board is to lay down, modify or annul effluents standards for the sewage and trade effluents and for the quality of receiving waters resulting from the discharge of effluents and to classify water of the state.

(h) Economical Methods of Treatment of Sewage

The State Pollution Control Board is to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soil, climate and water resources in different regions.

(i) Methods Regarding Utilization of Sewage

The State Pollution Control Board is to evolve methods of utilization of sewage and suitable trade effluents in agriculture.

(j) Methods of Disposal of Sewage

The State Pollution Control Board is to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of
scant stream flows that do not provide for major part of the year, the minimum degree of dilution.

(k) Laying Down Standards for Treatment of Sewage

The State Pollution Control Board is to lay down the standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the streams after the discharge of suit effluents.

(l) Advisory Functions

The State Pollution Control Board is to advise the state government about the location of any industry the carrying out of which is likely to pollute a stream or well

Besides the aforesaid statutory functions, the State Board is also to perform functions as may be prescribed from time to time, or may be entrusted to it by the Central Pollution Control Board or the State Government.\(^\text{10}\)

4.3 POWERS OF THE CENTRAL POLLUTION CONTROL BOARD

The Central Pollution Control Board is vested with the following powers:

1. The Central Pollution Control Board is empowered by Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 to give directions to the State Pollution Control Boards.

2. The Central Pollution Control Board has powers to perform any of the functions of the State Pollution Control Board in case of non-compliance of any directions given by the Central Pollution Control Board.

\(^{10}\) Ibid., p.127.
3. The Central Pollution Control Board is empowered to issue directions under section 33A of Water (Prevention and Control of Pollution) Act, 1974 to direct the closure, prohibition or regulation of any industry, operation or process or the stoppage or regulation of supply of electricity, water or any other service.

4.4 POWERS OF STATE POLLUTION CONTROL BOARD

The State Pollution Control Board has the following powers conferred on it by the Water (Prevention and Control of Pollution) Act, 1974:

1. Power to obtain information (Section 20)

2. Power to take samples of effluents for analysis (Section 21)

3. Power of entry and inspection (Section 23)

4. Power to impose restriction on new outlets and new discharges (Section 25)

5. Power to refuse or withdraw consent for the establishment of any industry, etc. (Section 27)

6. Power to carry out certain works (Section 30)

7. Power to carry out emergency operations in case of pollution of stream or well (Section 32)

8. Power to make applications to the courts for restraining apprehended pollution of water in streams or wells (Section 33)

9. Power to give directions (Section 33A)
4.4.1 Power to Obtain Information (Section 20)

For the purposes of enabling the State Pollution Control Board to perform the functions prescribed by the Water (Prevention and Control of Pollution) Act, 1974, it may survey any area and keep records of the flow and volume and other characteristics of a stream or well. The State Pollution Control Board is empowered to give directions requiring any person who is abstracting water from any such stream or well or is discharging sewage or trade effluent into any such stream or well, to give such information as to the abstraction or the discharge in the form prescribed. The state pollution control board is also empowered to give directions to any person in charge of any establishment where any industry, operation or process, or treatment and disposal system is carried out, to furnish all information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment.\(^{11}\)

4.4.2 Power to Take Samples of Effluents for Analysis (Section 21)

The State Pollution Control Board or any officer authorised by the State Pollution Control Board shall have power to take samples of water from any stream or well or samples of any sewage or trade effluent, for the purpose of analysis.

In the case of *Delhi Bottling Co. Pvt. Ltd. v. Central Board for the Prevention and Control of Water Pollution*,\(^ {12}\) a sample of trade effluent was taken by the board from bottling company’s discharge stream and after analysis was found not conforming the requirements of the consent order granted to company. The board filed a suit under the Water (Prevention and Control of Pollution) Act, 1974 and accordingly an injunction was issued by the court requiring the company to establish a treatment plant which the bottling company challenged. The Court held that the sample was not taken in strict compliance with procedure as under Section 21 of the Water (Prevention and Control of Pollution) Act, 1974 and this evidence cannot be regarded as admissible.

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\(^{12}\) AIR 1986 Delhi 152.
The Madhya Pradesh High Court in *Abdul Hamid v. Gwalior Rayon Co.*, pointed out that Section 21 of the Water (Prevention and Control of Pollution) Act, 1974 is meant for protection of the industries and industrialists ensuring a proper balance between the hazards to the citizens and conflicting claims of the nation’s industrial progress.13

4.4.3 Power of Entry and Inspection (Section 23)

Section 23 of the Water (Prevention and Control of Pollution) Act, 1974 confers the power of entry and inspection on the State Pollution Control Boards. This Section provides that any person empowered by the State Board in this behalf shall have a right to enter, at any time and with such assistance as he considers necessary, any place for the following purposes:

(a) For performing any of the functions of the State Board entrusted to him;

(b) For determining whether and if so in what manner (i) any such functions are to be performed, or (ii) whether provisions of this Act or rules made thereunder, or (iii) any notice, order, direction or authorisation, served, made, given or granted under this Act is being or has been complied with;

(c) For examining any plant, record, register, document or any other material object;

(d) For conducting search of any place in which he has reasons to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed; and (e) for seizing any such plant, record, register, document or other material object, if he has reasons to believe that it may furnish any evidence for the commission of offence punishable under this Act for the rules made thereunder.14

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14 Supra 4, p.211.
4.4.4 Power to Impose Restrictions on New Outlets and New Discharges (Section 25)

Section 25 provides that no person shall without the previous consent of the State Pollution Control Board:

(a) Establish or take any steps to establish any (i) industry, (ii) operation or process, (iii) any treatment and disposal system, or (iv) any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well, sewer or on land; or

(b) Bring into use any new or altered outlet for the discharge of sewage; or

(c) Begin to make any new discharge of sewage.

The Supreme Court in *M.C.Mehta v. Union of India*,\(^\text{15}\) held that financial capacity of the ternaries is not a relevant consideration while requiring them to setup primary treatment plants. A tannery which cannot setup a primary treatment plant cannot be granted consent by the State Pollution Control Board to continue its existence.

It was held in *Narula Dying and Printing Works v. Union of India*,\(^\text{16}\) that a consent order made under section 25 (2) of the Water (Prevention and Control of Pollution) Act, 1974 by the State Pollution Control Board does not entitle the industrial unit to discharge trade effluents into stream and it is obligatory for the unit to comply with the conditions mentioned in the consent order and put up effluent treatment plants with the time specified in the consent order.

In *Mahavir Soap and Godakhu Factory v. Union of India*,\(^\text{17}\) the State Pollution Control Board refused consent to the continuation of the factory in thickly populated area on the public complaint. Held, it was a genuine reason for refusal to grant consent and the Court

\(^{15}\) AIR 1988 SC 1037 (1045).
\(^{16}\) AIR 1995 Guj 185.
\(^{17}\) AIR 1995 Orissa 218.
had no reason to substitute its opinion in place of State Pollution Control Board’s decision.

In *T.N. Godaverman Tirumalpad v. Union of India*\(^{18}\), it was held that where there are various sources of pollution, they may be regulated by the State Pollution Control Board step by step and it was not for the Court to direct the government as to which step should be regulated first and so on.

The Supreme Court in *Andhra Pradesh Pollution Control Board v. M.V. Nayudu*,\(^{19}\) made it clear that prohibition under section 25 of the Water (Prevention and Control of Pollution) Act, 1974 extends even to newly opening industries which are in the process of being setup. Therefore, permission from the State Pollution Control Board must be sought when steps are being taken to establish an industry.

### 4.4.5 Power to refuse or withdraw consent for establishment of any industry etc., (Section 27)

The State Pollution Control Board shall not grant its consent for the establishment of any industry, operation or process etc. is to establish as to comply with all the conditions imposed by the Board.

The State Pollution Control Board may from time to time review any condition and may require the person to whom the consent is granted to make reasonable variation of such condition or the State Pollution Control Board may revoke any such condition.

In *Narula Dyeing and Printing Works v. Union of India*\(^{20}\) the Court held that obtaining a consent order from the State Pollution Control Board does not mean that the industry is entitled to discharge trade effluent into stream. It is incumbent upon the industry to

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\(^{18}\) (2006) 5 SCC 47.  
\(^{19}\) (2001) 2 SCC 62.  
\(^{20}\) AIR 1995 Guj. 185.
company with all the conditions prescribed in the Consent order within the stipulated
time limit failure to fulfil the conditions will result in the lapse of the consent.

In *Mahabir Soap and Godakhu Factory v. Union of India*\(^{21}\) the State Pollution Control
Board refused consent to the continuation of industry on the ground that factory is located
in the populated area and there was a public complain. It was held that the reasons cited
by the State Pollution Control Board are in conformity with the object of the Water
(Prevention and Control of Pollution) Act, 1974. The Court further held that the refusal is
in the discretion of the State Pollution Control Board.

4.4.6 **Power to carry out certain work (Section 30)**

In cases where the State Pollution Control Board has granted consent subject to certain
conditions and such conditions requires such person to execute any work in connection
therewith, the person is expected to carry out those works to fulfil the conditions under
which the consent was granted. If the person fails to execute any work in connection with
the fulfilment of the conditions imposed by the State Pollution Control Board, then the
State Pollution Control Board serve a notice on the person requiring him to execute the
work within the time period prescribed in the notice.

In spite of the notice if the person to whom the notice is served fails to execute such work
and all expenses incurred by the State Pollution Control Board for the execution of the
aforesaid work together with the interest will be recovered by the State Pollution Control
Board from the person concerned as arrears of the land revenue.

4.4.7 **Power to carry out emergency operations in the case of pollution of streams
or well (Section 32)**

If it appears to the State Pollution Control Board that any poisonous, noxious or polluting
matter is present in any stream or well or on land by reason of discharge of such matter in

\(^{21}\) *AIR 1995 Ori.218.*
such stream or such well or such land or as entered into that stream or well due to any accident or other unforeseen act or event, the State Pollution Control Board may for the reasons recorded in writing carry out certain emergency operations for all or any of the following purposes:

- Removing the matter from the stream or well or on the land and disposing it off in such a manner as the Board considers appropriate;

- Remediying or mitigating any pollution caused by its presence in the stream or well;

- Issuing order immediately restraining or prohibiting the person concerned from the discharging any poisonous, noxious or polluting matter into the stream or well or on land or from making insanitary use of the stream or well.

4.4.8 Power to make application to courts for restraining apprehended pollution of water in streams or wells (Section 33)

If the State Pollution Control Board apprehend that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such streams or well or in sewer, or on any land, or otherwise, the SPCB may make an application to a Court not inferior to a Metropolitan Magistrate or a Judicial Magistrate for restraining the person who is likely to cause such pollution from causing such pollution.

In *Maharaja Shri Umaid Mills v. State of Rajasthan*22, trade effluent was being discharged in the Bandi River by the mill. The State Pollution Control Board filed an application under Section 33 of the Water (Prevention and Control of Pollution) Act, 1974 to restrain the industry of causing water pollution. The Court held that section 33 is a social piece of legislation and provides a remedial measure and makes a provision for

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22 AIR 1998 Raj. 9.
remedial action being taken where there is an apprehension that the water in any stream or well is likely to be polluted on account of disposal or likely disposal of trade effluent in such stream or well.

The Punjab and Haryana High court in *Sukhna Paper Mill v. State of Punjab*\(^{23}\) held that where the decision issued by the court is not complied with, the Court can authorize the Court to undertake removal or disposal of the matter in such manner as may be specified by the Court for desisting pollution of water in any stream or well.

### 4.4.9 Power to give directions (Section 33A)

The State Pollution Control Board may, in exercise of its powers and performance of its functions under the Water Act, issue any direction in writing to the person, officer or authority, and such person, officer, or authority shall be bound to comply with such directions. The power to issue directions includes the power to direct the closure, prohibition or regulation of any industry, operation or proves or the stoppage or regulation of electricity, water or any other services.

In *Ambuja Petro Chemical v. A.P. Pollution Control Board*\(^{24}\) the petition was filed before the court against misappropriate order of the Andhra Pradesh Pollution Control Board requiring closure of the factory premises of the petitioner. The petitioner was issued with a notice a alleging that effluent sample disclosed the values are in excess of the standard prescribed by the State Pollution Control Board. It was also alleged that the petitioner was not lifting the effluent for final treatment and disposal. Thereafter, the State Pollution Control Board issued the preceding for the closure of the unit, which was challenged in the writ petition. While dismissing the writ petition the Andhra Pradesh High Court opined that the order passed by the State Pollution Control Board directing the closure of the industry is not appropriate. However the court said that it was always

\(^{24}\) AIR 1997 AP 41.
open to the Petitioners Industry to comply with the directions issued by State Pollution Control Board for restarting its industrial activities.

In *Associated Trades v. State Of West Bengal*, the Court held that the State Pollution Control Board should give the industry an opportunity to take any remedial measures for the purpose of prevention and control of water pollution before passing an order of closure of industry under Section 33-A of the *Water (Prevention and Control of Pollution) Act, 1974.*

The Madhya Pradesh High Court in *Mandu Distillers v. M.P Pradushan Niwaran Mandal* quashed the order of closure made by the State Pollution Control Board on the ground that there was denial of principles of natural justice and violation of procedural safeguard.

In *Re: Bhavani River Shakti suger Ltd.*, the Court upheld the order of closure made by the State Pollution Control Board. Since the industry did not take any remedial steps despite enough time granted, The State Pollution Control Board ordered the closure of the Industry.

Once again the Supreme Court in *M.C. Mehta V. Union of India*, upheld the order of closure of Tanneries made by the Board since the Tanneries in Calcutta were operating in violation of the provision of *Water (Prevention and Control of Pollution) Act, 1974* as well as *Environment (Protection) Act, 1986*.

In *Stella Silks v. State of Karnataka*, the High Court also followed the Supreme Court by upholding the order of closure of industry made by the State Pollution Control Board. The Court noticed that in spite of the notice issued by the State Pollution Control Board,

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25 1996 AIHC 2795.
26 AIR 1995 MP 57.
28 (1997)2 SSC 411.
29 AIR 2001 Kant 219.
the petitioner continued to the industry and also continued to pollute the environment by discharging polluted water.

Under the Water (Prevention and Control of Pollution) Act, 1974, different penalties have been prescribed for violating different provisions of the water act. Sections 41 and 45-A are relevant provisions in this regard.\textsuperscript{30}

\section*{4.4.10 Offences by companies (Section 47)}

Section 47 of the Water (Prevention and Control of Pollution) Act, 1974 incorporates the principle of vicarious liability. This section provides that where an offence against this act has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.\textsuperscript{31}

In \textit{U.P. Pollution Control Board v. Mohan Meakins Ltd.},\textsuperscript{32} Uttar Pradesh Pollution Control Board initiated proceedings against the manager and director of liquor processing company for discharging pollutants into river Gomati and raising pollution level in the same. The Supreme Court held that action against the manager and director of the company was rightly initiated under the water act. It was further held that Courts could not afford to deal lightly with cases involving water pollution.

\section*{4.5 ROLE OF NGOs}

The non-governmental organisations have been recognised as a major complementing force to the development efforts undertaken by the government.\textsuperscript{33} There are thousands of

\begin{thebibliography}{9}
\item \textsuperscript{30} Supra 4, p. 217.
\item \textsuperscript{31} \textit{Ibid.}, p.220.
\item \textsuperscript{32} (2000) 3 SCC 745.
\item \textsuperscript{33} Ali Mehdi, \textit{Water Pollution Laws and their Enforcement in India}, R.Cambray nd Co. Private Ltd., Kolkata, 1\textsuperscript{st} Edition, 2007, p.213.
\end{thebibliography}
organizations like Oxfam, Green peace and Amnesty International which serve the public at national and international levels. Although these organizations are known by various names like “private voluntary organization”, “civil society organization”, and “citizen association”, they are increasingly called as NGOs, i.e., “Non Governmental organizations”. This term is used by United Nation to make distinction between the representatives of these agencies and those of governments. There are a large number of NGOs who do not like to addressed by this name, but it has become part of popular parlance as the United Nation system is the main focus of international rule-making and policy formulation in the area where most NGOs function.34

4.6 HISTORICAL BACKGROUND

The term non-governmental organization or NGO came into vogue only after the formation of United Nations. In 1910, when 132 international NGOs had decided to cooperate with each other, they had done it under the label, the Union of International Associations. The League of Nations acknowledged its “liaison with private organizations”, which called themselves by different names like international institutions, international unions or simply international organizations.35

The first draft of the UN charter however, did not talk of maintaining any such like cooperation with private bodies. It was only as result of intense lobbying by various groups, mainly from USA at the San Francisco Conference that these groups succeeded in introducing a provision for strengthening and formulizing the relations maintained by the League of Nations with private organizations. They were also to enhance the UN’s role in economic and social issues and upgraded the statute of the Economic and Social Council (ECOSOC) to a “principal organ” of the UN. Moreover, there was introduction of new terminology to cover ECOSOC’s relationship with two types of international organizations. Article 70 provides, “specialized agencies, established by

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intergovernmental agreement could “participate without a vote in its deliberations”, by Article 71 provides “non-governmental organizations could have suitable arrangements for consultations”. As a result of this, “specialized agencies” and “NGOs” became technical UN terms. The term NGO gained popularity from the early 1970s onwards.\textsuperscript{36}

The United Nations Development Programme (UNDP) is the world’s largest--and most broadly based--multilateral organization for grant-based technical cooperation. It works to build developing countries’ capacities for sustainable human development by promoting and supporting efforts to alleviate poverty, manage natural resources to benefit both people and the environment, improve governance and create opportunities for people to improve their lives.\textsuperscript{37}

4.7 NGOs IN INDIA

Large numbers of voluntary and non-governmental organizations are focusing their attention on environmental issues. The numbers of such organizations, which are actively interested or involved in environmental issues in India, is much more than any other Third World Country. Pressure of such public groups impressed upon the Government of India to establish the Department of Environment in 1980 and pass a number of laws relating to air, water and industrial pollution. Awareness among people with regard to issues like poverty, land degradation, pollution problems, unhygienic sanitation, lack of drinking water, etc. and efforts of voluntary organizations have led people to start environmental movements especially from the 70’s onwards.\textsuperscript{38}

No Government, irrespective of its resources, is in a position to take care of all the environmental problems. NGOs and individuals have therefore a very important role to play in the area of environment.\textsuperscript{39}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{36} Id.
\item \textsuperscript{38} Supra 34, p.298.
\item \textsuperscript{39} Ibid., p.299.
\end{itemize}
\end{footnotesize}
There are over 10,000 NGOs in India ranging from reputed agencies at national level to small local groups, from established research organizations to mass based field organizations. These organizations are generally engaged in popularizing eco-development programmes, waste management, forest conservation, preservation of genetic diversity, environmental protection, bio-agriculture, eco-friendly technologies in industry and other environment related activities. World-Wide Fund for Nature (WWF)-India published a Directory on Environmental NGOs in India and provides detailed information of around 1500 NGOs engaged in different types of environment related activities, like health, education and upliftment of rural poor.40

4.8 ROLE OF NGOS

The NGOs that work to save the environment conduct campaigns across the country to create awareness among people about the depleting natural resources.41 The NGOs generally work at local level so they have the resources to get information in detail and correct form and thereby they can help remedy the problem in an effective manner.42

NGOs are involved in different kinds of roles like environmental awareness programme, prevention of water pollution, environment protection and offering training programmes to the locals to equip them with technical know-how in the implementation of the above activities for their overall socio-economic upliftment. Other than this, they can also play a major role in the implementation of rehabilitation schemes of the developmental projects by closely working with the affected people.43

Public participation in environmental decision making has a strong effect on environmental protection and it highlights the needs of not only the present generation

40 Ibid., p.300.
43 Supra 34, p.300.
but also the future generations. Mass movements gain momentum when people become conscious and this also leads to acceptance of their role in the governance of the country. The changing social scenario also requires the legal system to incorporate the participation of the people in the decision making process.  

Lack of coordination amongst various environmental groups across the country has been hampering the efforts to achieve the desired results. National Alliance of People’s Movement (NAPM), a coalition of like minded mass-based organizations, is of the opinion that there will be development only if power is given to the people. Around 25 NAPM activists had started off on foot from Ahmedabad for Wardha in Maharashtra. By the time they reached Delhi, they had already passed through 11 States, meeting different organizations and people there. They found that throughout the Country, people had been struggling for their rights over the lands and natural resources, but had been losing out due to isolated efforts. They also felt that the truthfulness of government’s claim of liberalization and the New Economic Policy benefiting us could be found from the people’s dissatisfaction about the same. Accordingly, NAPM took over itself the task of bringing all these people together and put forward an alternative development model to make people more powerful.

Lack of coordination between the different segments of society has, however, not been able to deter them from fighting for their rights. Lack of resistance to the anti-people, callous policies of successive governments is a common thing. However, some hope has been seen in South Maharashtra, where a peasant’s movement has demonstrated how even one of the most unorganized and vulnerable sections of the peasantry can assert their right to livelihood and bring about a new way of development. By their movement, these dam-oustees and the drought-affected have shown how their rights can be won through defiant and innovative struggles.

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45 Supra 34, p.302.
46 Id.
Within India, the NGOs have achieved noteworthy success with regard to environment through the process of Public Interest Litigation. However, there is need to further strengthen the role of NGOs and take it beyond that of knocking on the doors of judiciary to creating an awareness amongst the common public with regard to their duties towards environmental protection. NGOs need to be involved in the process of environmental education and creation of mass awareness.

NGOs in India like TOXIC LINK (founded in 1996) collects and disseminates scientific information about the impact of toxins on people and environment in local languages and formats that are accessible to a wide range of individuals, as well as grassroots and community groups. The organization consists of several decentralized regional nodes in the cities of Delhi, Mumbai, Bhavnagar and Chennai, with each node servicing information needs in their outreach areas.⁴⁷

To encourage the role of NGOs in environmental protection, the Pollution Control Boards gave official recognition to NGOs. The Central Pollution Control Board established an 'NGO Cell' to coordinate pollution control activities across the country. The Ministry of Environment and Forests (MoEF) also supported NGOs engaged in promoting environmental education in the country. The National Environmental Awareness Campaigns, promoted by the MoEF successfully encouraged many NGOs to work for environment protection and sustainable development. About 4000 NGOs were given financial assistance for creating environmental awareness. An Environmental Information System (ENVIS) network was setup to disseminate information on environmental issues.⁴⁸

The Draft 12th Five-Year Plan (2012-2017) also prescribed partnerships with the civil society organizations. The plan stated that:

"Civil Society has a crucial role to play in strengthening of local institutions and in bringing innovation into government programmes. Government must strongly encourage partnerships with civil society including not only NGOs, but also academic institutions, professional associations and universities". 49

4.9 ENVIRONMENTAL ACTIVISTS IN INDIA

There are number of environmental activists whose remarkable contribution in the prevention of water pollution and environmental degradation is really an inspiration for the people. Some of these activists are mentioned below:

4.9.1 M.C. Mehta

M.C. Mehta, is one of the India’s leading environmental activist- the recipient of Goldman Prize for his contribution to the environment among others. Mehta is a lawyer and leader of Indian council for environment legal action (ICELA), a group which regularly uses litigations as its primary tactic when pursuing its public policy goals. He has also been conferred with Ramon Magasaysay award for public service. Mehta has been able to get new environmental issues initiated and has brought environmental protection into India’s constitutional framework. He has obtained forty landmark judgments and numerous orders from the Supreme Court against the polluters, a record that may be unequalled by any other environmental lawyer. Some of the prominent environmental victories of his organization include-Delhi pollution and Ganga pollution cases. 50

49 Id.
4.9.2 Medha Patekar

Medha Patekar has been a central organizer and strategist of Narmada Bachao Andolan (NBA), a people's movement organized to stop the construction of a series of dams planned for India's largest westward flowing river, the Narmada. The World Bank-financed Sardar Sarovar Dam is the keystone of the Narmada Valley Development Project, one of the world's largest river development projects. Upon completion, Sardar Sarovar would submerge more than 37,000 hectares of forest and agricultural land. The dam and its associated canal system would also displace some 320,000 villagers, mostly from tribal communities, whose livelihoods depend on these natural resources.

In 1985 Patekar began mobilizing massive marches and rallies against the project, and, although the protests were peaceful, she was repeatedly beaten and arrested by the police. She almost died during a 22-day hunger strike in 1991. Undaunted, she undertook two more long protest fasts in 1993 and 1994. With each subsequent summer monsoon season, when flooding threatens the villages near the dam site, Patekar has joined the tribals in resisting evacuation and resigning themselves to drown in the rising waters. To date as many as 35,000 people have been relocated by the project; however, they have not been adequately resettled and hundreds of families have returned to their home villages despite the constant threat of submergence. The activists are continually subjected to intimidation. In 1994 the NBA office was ransacked, and later Patekar was arrested for refusing to leave the village of Manibeli which was to be flooded. These actions led to an unprecedented independent review of the dam by the World Bank, which concluded in 1991 that the project was ill-conceived. Unable to meet the Bank's environmental and resettlement guidelines, the Indian government canceled the final installment of the World Bank's $450 million loan. In 1993 Patekar and the other activists forced the central government to conduct a review of all aspects of the project. Meanwhile, the sluice gates to the dam were closed in 1993, in defiance of court orders, and water was impounded behind the dam. She has also helped establish a network of activists across the country- the National Alliance of People’s Movements. She has also
been conferred with the prestigious Goldman Environmental Peace Award for the year 1992.\textsuperscript{51}

\textbf{4.9.3 Chandi Prased Bhatt and Sunder Lal Bahuguna}

Chandi Prasad Bhatt and Sunder Lal Bahuguna have been the pioneers of Chipko movement and have again made a remarkable contribution in sensitizing the indigenous people about the environmental problems and have been responsible for getting a ban imposed on commercial forestry. Ramachandra Guha opines that Chipko Movement helped in generating awareness amongst the masses at both national and global levels that deforestation, soil erosion and floods are linked to the fragility of mountain ecosystem.\textsuperscript{52}

\textbf{4.9.4 Anil Agarwal}

Anil Agarwal was one of the most prominent and respected environmental activist in India. Trained as an engineer and working as a journalist, Agarwal was inspired by the Chipko movement in the 1970s. to investigate matters of environmental conservation and destruction he established a centre for science and environment (CSE) in New Delhi in 1980, which published the \textit{Citizens Report On The Environment}, and also launched a journal, \textit{Down To Earth}, that addressed issues of development and environment. Anil Agarwal wrote extensively and spoke publicly against ongoing pollution of water all over India. The alternative he, and others, propagated is the concept and practice of “sustainable development”. His pioneering and innovative work in environmental conservation was recognized in India and abroad through various awards, and in 1987 the United Nations Environmental Programe elected Anil Agarwal to the Global 500 Honor Role. Despite his untimely death, the CSE remains a leading non-governmental organization specializing in environmental issues.\textsuperscript{53}

\textsuperscript{52} Amit Mitra, “Chipko is post-independent India’s most powerful ecological movement: Come Undone”, \textit{Down To Earth}, p.27.
4.9.5 Prafulla Samantra

Prafulla Samantara is another noted social and environmental activist and is a President of “Lok Shakti Abhiyan” an organization fighting for social and environmental issues. He has been working with Adivasis in over hundred villages and helping them in protecting their land, forests, and livelihoods all of which are threatened by mining companies. He has been also been working with the media, local government and other civil society organizations to highlight their cause and to bring justice to them. He has also been addressing workshops on “right to livelihood of displaced victims by development projects and giving evidence to fact-finding team for investigating allegations against Alumina Company on the destruction of forest area in Kalahndi. Among other things, he is also presenting papers against privatization of water as a declared policy of Central and State governments.\(^{54}\)

4.9.6 Rashida Bee and Champa Devi

Rashida Bee and Champa Devi Shukla are two Bhopal Activists who have ignited the international campaign seeking justice for disaster survivors. In the process, they have overcome the enormous stigma of their poverty, their status as women in a male dominated society, and as far as Bee is concerned, illiteracy also. They have mobilized low-income, illiterate women like themselves to fight against a powerful company. For their efforts, they have been conferred with Goldman Environmental Peace Award for the year 2004.\(^{55}\)

4.9.7 Baba Balbir Singh Seechewal

Baba Balbir Singh Seechewal, has become recognised as Punjab's most famous eco-activist, spearheading an anti-river pollution campaign. The Kali Bein rivulet, the place where Guru Nanak Dev Ji is said to have received enlightenment, over the years has

turned into weed choked drain. Recently the river is clean due to the efforts of Baba Balbir Singh Seechewal in partnership with the Punjab State Government. He organized people’s participation in stopping the massive flow of sewage into the Bein and cleaned 160 kms long polluted and choked rivulet within the last three and a half years by deploying on an average 3000 volunteer pilgrims per day. The revival of this rivulet has recharged the water table as the hand pumps that had become dry for the past four decades are now pumping out water.\footnote{Radha Kant Bharati, \textit{Interlinking of Indian Rivers}, Lotus Press, New Delhi, 2006, p.35.}

There are then a large number of people like Arundhati Roy, who have walked out in support of various segments of the society fighting for their rights to live in a clean and hygienic environment. They have used various platforms to highlight the grievances of the displaced people and the inadequate relief given to them. But the fact remains that they are still in minority and they have to face lot of adversity. However, the saving grace is that these environmental activists have only thrived in adversity.

The Water (Prevention and Control of Pollution) Act, 1974, has vested the Central Pollution Control Board and the State Pollution Control Boards with some very important powers and functions. These in turn enable the Boards to perform their duties in regulating the environment. The Boards have involved the jurisdiction of the Courts for enforcing various decisions taken by them and thus ensured that the polluters of environment do not escape their responsibilities. Similarly, NGOs and Environmental Activists have also been made significant contribution in preventing and controlling water pollution on different occasions and are still continuing their fight for protecting the environment.