

## **Environmental Impact Analysis of Water Pollution in India**

**Surendra Kumar Gupta,  
Department of Law, Rajeev Gandhi College, Bhopal**

### **Abstract**

Water quality has become a major global concern due to ever increasing human developmental activities. Water is one of the most essential requirements for all living beings, Industrialization and human activity for a better quality of life has always resulted in some. Impact on the environment leadings to equilibrium imbalance of the natural system. Bolstered by recent legislative, administrative and judicial initiatives, environmental, regulation in India bristles with new and interesting features. Until the mid-eighties the regulatory system was fairly dull. In control and enforcement techniques, there was little to distinguish this field from the general body of law for instance, when parliament enacted the water act 1974. It adhered to the pattern of numerous other Indian statutes and created yet another agency administered licensing system this time to control effluent discharges into water. A breach of the Act Invite Judge imposed penalties. The body of case law too.

**Key words-** water, ammonia, case law, oxidation, waste, micro-organism.

### **Introduction**

International concern for the environment excepts in particular areas such as water pollution is of relatively recent origin. All this has been transformed, in part, due to the spare of fresh legislation passed after the Bhopal gas leak disaster of December 1984.

The new laws and rules are impressive in their ranges. They cover hitherto unregulated fields, such as noise, vehicular emissions, hazardous waste, hazardous micro-organisms stringent penalties introduced into the order pollution control laws, specifically the water acts, have raised the cost by non compliance to deterrent levels.

### **Analysis**

Equally significant, we find in these laws a governmental effort to supplement the old licensing regimes with array of new regulatory techniques. Citizens suit provisions “public interest” is defined thus; *“public interest” article 32(1) a matter of public or general interest “does not means that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal right or liabilities are affected”*.

The new legislation has spawned new enforcement agencies and strengthened the older ones. Some of these agencies perform highly specialised tasks. Consider the authorities constituted under the Hazardous micro organisms rules of December 1989. The recombinant advisory committee reviews developments in biotechnology national and international levels and recommends suitable safety regulations for recombinant research in India. Further, the past decade has seen a growth in the budget and staff of the control and state pollution control boards, charges with implementing the water acts.

**M.C. Mehta vs Union of India**<sup>1</sup>. The Supreme Court appointed several expert committees and through periodic directions based on the committees reports, supervised the regeneration of the Deharadun vally, which had been devastated by limestone quarrying. On another occasion, functioning like a super agency, the Supreme Court endeavoured to reduce pollution of the Ganga by closing down polluting tanneries and directing municipalities to take immediate remedial action to prevent municipal wastes from flowing into the river.

Water (prevention and control of pollution) act 1974, [No6 of 1974]. Of water pollution and the maintaining or restoring of someness of water for the establishment, with a view to carrying out the purposes aforesaid, of board for the prevention and control of water pollution or purposes aforesaid of boards for the prevention and control of water pollution, for conferring or and assigning to such boards powers and functions relating thereto and for matters connected therewith.

And whereas parliament has no power to makes laws for state with respect to any of the matters aforesaid except as provide in articles 249 and 250 of the constitutions<sup>2</sup>.

And whereas in pursuance of clause (1) of article 252 of the constitution resolutions have been passed by all the houses of the legislatures of the states.

The environment offers one of the clearest examples that all human activities or our planet are interconnected. Just as one persons depletion or degradation of quality or quantity of what is left to others, so also one country degradation of the global commons degrades the global environment for all countries.<sup>3</sup>

A survey of early environmental legislation indicates the nature and levels of governmental awareness to environment issues. A part of laws nineteenth county legislation also partially regulated two other aspects of India's environment; water pollution.<sup>4</sup>

The Indian Fisheries Act passed in 1897, penalised the killing of fish by poisoning water and by using explosives. Legislative provisions regulating the discharge of oil into part water's<sup>5</sup> and prohibited the poisoning of water in forests.<sup>6</sup>

The purpose of the legislation is not only the prevention and control of water pollution but also the maintenance and restoration of the wholesomeness of water. This legislative measure is designed to tackle one facets of environmental pollution. Its main objectivities are :

- (i) To provide for the prevention and control of water pollution and maintaining or restoring of wholesomeness of water.
- (ii) To establish control and state boards for the prevention and control of water pollution.
- (iii) To provide for conferring on and assigning to such board powers and functions relating thereto and for matters connected there with
- (iv) To provide penalties for contraventions of previous of the act and
- (v) To establish control and state water testing laboratories to enable the board to assess the extent of pollution lay down standards and established guilt or default.

As regards other states, they may adopt this particular Act by the passing a resolution under Article 252(1) of the constitution.<sup>7</sup>

Encyclopaedia of environmental pollution and control has enumerated following sources of water pollution.<sup>8</sup>

- (i) Domestic water pollution
- (ii) Industrial water pollution
- (iii) Agricultural water pollution
- (iv) Solid waste pollution
- (v) Thermal pollution
- (vi) Shipping water pollution
- (vii) Radioactive water pollution

The Indian legal system provides sources of law for addressing water pollution problems. ***Andhra Pradesh pollution control boards vs M.V. Naidu***. The state government may by notification in the official Gazette (A) Alter any water pollution, prevention and control area whether by way of extension or reduction or (B) define a new water pollution, prevention and control area in which may be merged one or more water pollution prevention and control areas, or any part or parts thereof. However it has been held in that state government cannot be grant exemption from prohibition against polluting industry to be setup.<sup>9</sup>

Environmental *pollutant* “*Means and solid liquid or gaseous substance present in such concentrations as may be, or tend to be injurious to environment.*”<sup>10</sup>

T.Rama Krishna Rao vs the Chairman, HUDA and other<sup>11</sup>. The division bench of Andhra Pradesh High court has held that the protection of the Environment is not only the duty of citizens but also the obligation of the state and its all other organs including the courts. The Enjoyment of life and its attainment and fulfilment guaranteed under Article 21 of the constitution of India. The protection and preservation of nature's gift without which life cannot be enjoyed fruitfully. The court observed that the water pollutants are two kinds-

- (i) Conventional water pollutants
- (ii) Non conventional water pollutants<sup>11</sup>.

**M/s Nicosuly Industries and exports Pvt. Ltd. Vs State of Gujrat and Another<sup>12</sup>.** Where the complaints were filed against the revisionist petitioner alleging that the kerosene and sulphuric acid as raw materials and were discharging 10,800 liters of polluted water every day. It was held that on a combined reading of section 49(1)(9) and section 11-A of the water (prevention and control of pollution) Act 1974. It can be said that the cognizance of offence can be taken by the court (i) on a complaint filed by the board or on the complaint filed by the duly authorized person by the board. But in the present case the complaint has not been filed by the duly authorized person or by the board, hence the complaint is not maintainable. It was further held that in view of section 49 the complaint can be filed against the person who is in charge or responsible for the conduct of the business affairs of the company can be said to be in charge of the company but revisionist No. 2 was never manager of the company. A Director of the company cannot be said to be responsible for the conduct of the business of the company thus, in absence of such evidence or record, the order of conviction and sentence against the revisionist No. 2 cannot be sustained<sup>12</sup>.

Rajiv Ranjan Singh alias Lallan Singh vs State of Bihar and other<sup>13</sup>. The Patna High Court in contamination of water resource amounts to violation of fundamental rights of the inhabitants guaranteed under Articles 14, 21, 47 and 48 of the constitution of India.

Shailesh R. Shah vs State of Gujrat. The Gujrat High Court clarified that water management is necessary for today's life<sup>14</sup>.

Kisan Sahakari Sugar (Chini) Mills Ltd. vs M.P. Pardushan Niwaran Mandal<sup>15</sup>. The Allahabad High Court has held that in view of the prohibition on use of stream or well for disposal of pollution material is prohibited.

## **Present Problem of Water Pollution**

Most of the rivers are polluted by the direct discharge of Industrial effluents and sewage into them. Pollution levels are high in the river Ganges in certain areas, and it is unfit as a drinking water supply source. The main source of water pollution in India is sewage, which comprise 90% of the pollutants while only 10% comes from Industry. All fresh water lakes are becoming severely polluted and most of the fresh water lakes are polluted.

## **Suggestion**

The power to issue direct orders given to pollution control boards under section 33A water (prevention and control of pollution) Act of 1974 may result in a decrease of section 33 actions against polluters. Note, however, that the courts are still involved in enforcing section 33A orders since the state boards have no direct power to exact fines, order imprisonment or otherwise complete compliance with their directions other than penalty actions filed with the courts under the act. Under section 33A, the directions of the state boards are subject to any directions issued by the central government. As a matter of policy, should the central Government be allowed to countermand a section 33A, direction from a state board which authority is better situated to evaluate local water pollution problem the central government or state board which authority is better insulated from pressure by industry and local government.

## **Conclusion**

The humanity faces the big problem scarcity and pollution of fresh water supplies. The problem we face is how to stick a balance between the benefits of rising standard of living and its costs in terms of deterioration of the Physical Environment and the quality of life. In the past the danger of pollution water was not fully recognised but now there is no doubt that it is a matter of great concern. India was losing about 20,000 million tonnes of Top soil per annum through water erosion and that these represented.

The 14 major rivers in India carry, among themselves, 85 percent of the surface run off, cover 83 percent of the country within their drainage basins and house about 80 percent of the population in their basin area together with other medium and minor rivers, lakes, tanks etc. They provided for our fresh water needs. For India's large and growing population water course most satisfy various domestic demands beside those for agriculture Industry, fisheries, navigation and power generation as well as be a receptacle for community, industrial and agricultural wastes. There is now a wealth of documented evidence of the adverse effect of water pollution from all over the country. These range from the transmittal of waterborne diseases like

cholera, Jaundice, typhoid and dysentery to fish kill and loss of agricultural productivity through the use polluted water. From the dale lake in North to the Periyar and chaliyar rivers in the south, from the Damodar and Hooghly in the east to the thana crack in the west, the picture of water pollution is uniformly gloomy. Even our large peremial rivers like the Ganga are today heavily polluted.

The water pollution boards in the central and states have not yet been given adequate support to tackle these massive problems. For greater priority than hither to must be given to this special sector.

Article 51(A)(g) Fundamental duty with respect to environment. It provides as follows:-

“It shall be the duty of every citizen of India to protect and improve the natural environment including forests, Lakes Rivers and the wild life and to have compassion for living creatures”<sup>16</sup>.

Fundamental duty with respect to environment is intended to promote peoples participation in the protection of environment. To note that environment problem is the concern of every citizen.

## **References**

1. AIR 1988 Sc. 1115
2. Environmental law and policy in India 1995
3. United Nations Environment Programme Montreal Protocol on substances that deplete the ozone layer 1987.
4. Mathur, A federal legislative history of control of water pollution in India in legal control of environmental pollution – 86-94.
5. section 21 Indian ports Act of 1908
6. section 26 Indian ports act of 1927
7. Environmental law II<sup>nd</sup> edition Dr. J.J. R. Upadhyay P-161-162
8. G.R. Chhatwal Encyclopaedia of Environmental pollution and control vol. II 1990 p. 138.
9. 3 (2001)2 SCC62
10. Dr. R.L. Rathi Morden Environmental laws 2002 page No. 42.
11. 5ILR (2001)2 AP 186(DB)
12. Guj L.R. vol. XLIII (2) 2002(2)1580
13. 7 AIR 1992 Pat. 86 (DB)
14. 2002(2)XLIII(3 GLR. 2295 (DB)
15. AIR 1984 All 303.
16. Dr. J.N. Pandey the constitutional law of India 45<sup>th</sup> Edition central law agency P.No. 407, 2008.