

## Chapter 7 Environmental Protection.

### ★ Environmental (Protection) Act, 1986

Environmental studies is of vital concern in recent times. One needs unpolluted air to breathe, uncontaminated water to drink, nutritious food to eat & hygienic condition to live in. These elements are very essential for the sound development of human personality. We are facing various problems like global warming, acid rain, increasing air & water pollution, degradation of natural resources.

The Act is for the protection & improvement of environment & for matters connected therewith. Prevention of hazards to human beings, other living creatures, plants & property was the basic idea for the protection & improvement of environment.

Indian Parliament took a vital step by enacting Environment Protection Act, 1986.

The Environment Protection Act has 4 chapters containing 26 sections.

- Section 1 & 2 include preliminary information.
- — " — 3 to 6 deal with general powers of Central Govt.
- — " — 7 to 17 deal with the prevention, control & abatement of pollution.
- — " — 18 to 26 deal with miscellaneous provision.
- Section 2 deals with various definitions under the Act.
  - > Environment - includes water, air & land & the interrelationship which exists among & between water, air & land & human beings.
  - > Environmental pollutant - means any solid, liquid or gaseous substance present in such concentration as may be.
  - > Environmental pollution - means the presence in the environment of any environmental pollutant.
  - > Handling in relation to any substance, means the manufacture, processing, treatment, package, storage.
  - > Hazardous Substance means any substance or preparation which by reason of its chemical or physico chemical properties or handling.



### • Section 3 to 6

- > To lay down standards for the quality of environment in its various aspects.
- > To lay down standards for emission or discharge of environment pollutants from various sources.
- > To restrict any industries, their operations or processes if these are polluting the environment.
- > To lay down procedures & safeguards for the handling of hazardous substances.

### • Section 17 to 17

- 7 → Persons carrying on industry are not allowed to emit or discharge environmental pollutants in excess of the standards.
- 8 → Persons handling hazardous substances are required to comply with procedural safeguards.
- 9 → If any industry discharges excess environmental pollutant, then it is the duty of the person having control over the affair.
- 10 → The purpose of examining & testing any equipment, plant, records, registers, document.
- 11 → Have power to take samples in a prescribed manner.
- 12 → Samples need to be send to the environmental laboratories for analysis.
- 13 → The analysis is to be carried out by the government analyst who is appointed by the Central Government.
- 14 → Report signed by a Government analyst may be used as evidence of facts in any proceeding under this Act.
- 15 → Fails to comply with any of the provisions of this Act, he is liable for the punishment, 5 years or with fine maximum up to 1,00,000 ₹s or both.
- 17 → Committed by any Government Department, then the Head of the Department is to be held guilty of the offence.



### \* The Air Act, 1981

The day by day increasing 'Air Pollution' is indeed very complicated problem before man. Air pollution is injurious to human beings or other living creatures a plants or property or environment.

The main objective of this Act is prevention, control & abatement of air pollution & to take appropriate steps for the prevention & control of pollution.

This Act covers all the major industries which are likely to pollute the air. The industries covered are product industries, cement & cement products industries, ceramic & ceramic products industries, chemical, coal based industries, engineering industries, foundries, food & agricultural product industries, mining industry.

The act includes 54 sections divided into seven chapters.

- Section 1 & 2 include preliminary information
- Section 3 to 15 deal with matters of Central & state boards.
- → 16 to 18 deal with powers & functions of boards
- → 19 to 31 → " prevention & control of air pollution
- → 32 to 36 → " funds, accounts & audit
- → 37 to 46 → " penalties & procedure
- → 47 to 58 → " miscellaneous provisions.

Section 1 → deals with the extent & commencement.

2 → various definitions

2a → Air pollutant → means any solid, liquid or gaseous substance present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants.

2b → Air pollution → means the presence in the atmosphere of any air pollutant.

2d → Approved fuel → means any fuel approved by the state board for the purpose of this act.

2f → Board → means the Central Board or state Board.



3 → Water (Prevention & Control of Pollution) Act, 1974

4 → Water Act have been authorised to perform the functions of State Boards.

5 → State Board to be constituted under the Act is same.

6 → State Board is constituted for a Union territory separately.

11 to 15 → deals with, the terms & conditions of service of State Board members.

38 → provides for the punishment with imprisonment for a term with fine 10,000 ₹.

40 → offence is committed by any company under this Act, then every person who is incharge of the company at the time of the company itself.

41 → If any Department of Government committe such offence then, the Head of that Department is liable for punishment.

45 → Central & State Boards are to furnish reports & returns accounts, to the Central & state Govt resp.

46 → no suit or proceedings can be initiated in any civil courts in respect of any matter.

47 → related to power of Central Govt. to supersede state board.

48 → deals with special provisions in case of supersession of Central Board.

49 → deals with dissolution of state Boards.

51 → deals with maintenance of Register.

52 → deals with effect of other laws.

53, 54 → deals with powers of Central & state Govt.

#### \* The Water (Prevention & Control of Pollution) Act, 1974

The problem of water pollution has special significance in Indian context.

##### Objectives of the Act:

- To prevent & control the water pollution & maintain or restore the wholesomeness of water.



- To establish Central & state Boards for the prevention & control of water pollution.
- To confer on & assign powers & functions to such boards on the matters of water pollution.
- To establish Central & state water testing laboratories to enable the board to assess the extent of pollution.

#### Applicability of the Act

The Act is applicable to all the states who adopted it under 252(1) of the constitution. There are 64 sections in the Act. These are divided in 8 chapters. The first chapter of the act contains preliminary information on the application & commencement of the Act.

Section 2 of this Act defines the major terms like occupying pollution, state board, central board, sewage effluent.

#### Prevention & control of water pollution

Section 20 of the Act provides for the power to obtain any information required by the Board to perform its functions. By following the standard procedure, any person authorised by the board can take samples of effluents. These samples are sent to the authorised laboratory for the analysis, analysed by Government recognised analyst & the reports are prepared.

The use of stream or well for the disposal of any polluting matter has been prohibited under section 24 & new outlets for the discharge of effluents has been restricted by section 25.

The matter related to the grant for plant & industry is under section 27, 28 & 29.

#### Penalties & Procedures

Seventh chapter of this Act deals with different penalties



& legal procedure of imposing penalties. The person is held guilty, he doesn't give required information as under section 20 (2) & (3) & is punishable may for three months or with fine up to Rs. 10,000 or with both.

If any person disposes any polluting matter into any stream or well then he is punishable with up to six years & with fine.

#### \* Wildlife Protection Act, 1972.

Wildlife is an essential biotic component of nature. It constitutes national heritage & wealth. The wildlife act was passed by Indian Parliament on 9<sup>th</sup> September 1972. The forest & wildlife were directly or indirectly the state subjects. The Act is made applicable throughout the country. The Act is adopted by all the states except that of Jammu & Kashmir. The state of Jammu & Kashmir has its own Act for the purpose of its wildlife protection.

The main objective of passing this Act was to protect the wildlife including all flora & fauna. There are 66 Sections in wildlife Act, 1972. These have been divided in seven chapters & six schedules.

The act supports for conservation & management of wildlife of the country. For the control of poaching & illegal trade in wildlife products, captive-breeding programmes for endangered species of wildlife, development of selected zoos & wildlife education are the other activities under the provisions of this Act.

#### The Major Provisions in the Act

The chapter-1 contains short title & definitions of some important terms used in the Act. These definitions include some technical terms like animal, animal article, captive animal, closed area, hunting, National park, wild life etc.

The chapter-2 deals with the authorities to be appointed for the



purpose of wildlife protection in the country.

The composition of wild life Advisory Board is as follows:-

- The minister in charge of Forest as Chairman or Chief Secretary, in case if no minister.
- Two members of the state legislator.
- The secretary in charge of forests
- Chief conservator of forests as ex officio or chief wild life warden as ex officio.
- One officer to be nominated by the Director.
- The officials or non-official members upto fifteen in number who have interest in wild life protection.

The chapter - 3 of the Act deals with the provisions related to wild animal hunting. Hunting of wild animals specified in the schedule has been prohibited except certain exceptions like self-defence. Any such animal killed is the property of the Government. The Government can grant permission to kill these animals for academic purposes.

Chapter - 4 Legal provisions for the declaration of wildlife, national parks & closed areas.

#### \* Forest Conservation Act, 1980

The forest is an important traditional resources for the people to satisfy their needs. The act was published in the official Gazette on 27<sup>th</sup> December, 1980. It applies to the case of mining & similar lease granted for non-forest purposes. The Act extends to whole of India except the state of Jammu & Kashmir. It has the following five sections:

1. Short title, extent & commencement (sec. 1)
2. Restriction on the de-reservation of forest or use of forest land (sec. 2)
3. Constitution of advisory committee (sec. 3)
4. Power to make rules (sec. 4)
5. Repeal & saving (sec. 5)



The word 'forest' covers all statutorily recognized forests, including reserved, protected or any other forests. The term 'forest land' includes any forest area as on Government record irrespective of its ownership.

### Major provisions in the Act

The main objective of this Act is to provide for the conservation of forests & for the other matters connected therewith.

The act puts restrictions on the power of state Government in respect of preservation of forests or use of forest land for non-forest purposes like cultivation of tea, coffee, spices, rubber, medicinal crops. It does not include use of forest for the work related to forest conservation, development & management of forests & wildlife.

According to section 2 of the Act the state Government can not make any order without prior approval of the Central Government in respect of de-reservation of forest. Orders include:

- that any reserved forest or any portion shall be reserved.
- that any forest land or any portion thereof may be used for any non-forest purpose.
- that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land for the purpose of using it for reforestation.

Section 4 of the Act gives power to the central Government to make rules for carrying out the provisions of the Act & get them approved by the house of parliament.

The forest can not be looked upon as mere a source of revenue generation, but as the wealth of nation. These are vital renewable natural resources. The forests can not be overlooked for any other developmental activities by converting the forest land into the non-forest purpose.



## \* Human Rights

The concept of human rights has been evolved from the concept of natural rights which is derived from natural law. The development of human rights & their recognition & protection on international level can be divided into different periods.

By the mid 20<sup>th</sup> century various developments & the consciousness among Indian leaders & congress put forward demands for the acceptance of civil rights for the Indian people.

There are 7 Fundamental Rights as follows:

1. Liberty of person & security of his dwelling & property.
2. Freedom of conscience & the free profession & practice of religion.
3. Free expression of opinion & the right of assembly.
4. Free elementary education.
5. Use of roads, public places, courts festive & the like.
6. Equality before the law, irrespective of considerations of nationality.
7. Equality of the Gender.

These rights are impliedly quarantined rights & now available to the persons of India. They are as follows:

- Right to lively hood.
- Right against Inhuman & degrading treatment.
- Right to speedy trial.
- Right to provide legal assistance.
- Right to life & capital punishment.
- Right against environmental pollution.
- Right to privacy.
- Liberty to travel abroad.
- Right of prisoner to be treated with humanity.
- Right of compensation in case of violation.