

On behalf of the employer Corporation which had all the features of 'the State', it was submitted that the clause in question was part of the contract entered into by the Corporation in the Court of its trade activities and the Court therefore should not interfere with it. It was further submitted that if the employees felt aggrieved they could at best file a suit for the redressal of their grievance in the Courts of ordinary civil jurisdiction, but not a writ petition

under the extraordinary jurisdiction of the High Court under Article 226 of the Constitution.

The Supreme Court held the impugned rule of contract as void. It observed that the writ petition was maintainable to review the contract on the basis of its being opposed to Public Policy and its being violative of Article 14 of the Constitution of India.

ENVIRONMENTAL POLLUTION AND REFORMS

By

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The word "ENVIRON" is derived from French term "Environer" which means "to surround". From this word, the most well know term today. "Environment" is formulated and has become world famous. The word "Environment" in its etymological sense gives the meaning "Surroundings" especially the material and spiritual influences which affect the growth, development and existence of living being". In its wider sense, environment is a combination of the various physical and biological elements that affect the life of an organism.

Ecology is connected with environment. Ecology is a branch of biology concerned with the relation between organisms and their environment. Ecology is a balanced environment used for a natural or artificial environment.

Environmental Pollution

Environment is God gift, water, air, soil are the most important things for living beings. Since the starting of existence of living being,

physical and biological processes have been continuing in the environment. However, this normal environmental processes are adversely affected by the contamination by human beings by excess use of natural resources and human resources. The invention of latest technology has caused the establishment of industrialization and urbanization. The modern techniques paved the ways for abundant environmental pollution in the shape of industrial wastages.

Various Sources of Environmental Pollution

There are several hundreds factors causing environmental pollution. The earth, forests, lakes, seas, air, ozone layer *etc.*, are being polluted everyday. The rate of environmental pollution is increasing day by day. The main sources can be classified into three categories.

1. Natural Environmental Pollution
2. Population growth
3. Industrialization

Natural Environmental Pollution

1. Atmospheric: Bizzards, thunderstorms, tornadoes, Tropical cyclones, drought, floods, hail, frosts, heat waves, *etc.*
2. Terrestrial : Earthquakes, volcaniceruptions, landslides, avalanches, subsidence *etc.*
3. Aquatic: Floods, stormsurges, tsunamis, *etc.*
4. Biological: Plant, animal and insect infestations, fungal, bacterial and viral diseases.
5. Environmental Pollutions Acid rains, ozone depletion, deforestation, ecological imbalance, *etc.*

Population Growth

For thousands of years, the earth's total human population changed little. Since the eighteen century it began to increase alarmingly. The Nations Fund for Population Activities (UNFPA) in the Report 1993 warned the world that if the population growth was not controlled, it would effect on ecologic, economic and social disasters. The report also warned that annual average 98 million, the highest history is included to the population per year.

The Industrialization

The Industrialization is the main factor and source of the environmental pollution. It is more dangerous than the two sources above cited. The Industrial Revolution started in Britain in 18th century. Later it spreaded in the remaining world, specially in other western countries. The traditional energy consumption produced from charcoal in limited extent, was replaced by the industrial energy, which required more energy for the industries and domestic purposes. Added to it, development in technology brought new ways to exploit the new sources of energy, such as coal, gases, oils, thermal energy *etc.*

The new technology introduced new means of transportation, such as Railways, Motorcars, Aeroplanes, Rockets, *etc.* All these new means consumed huge quantities of natural resources. Automobiles are major contributors for air pollutions in the urban cities. They are causing major environmental pollution by ways of sludge, industrial waste.

The factories release noxious and hazardous gasss into the atmosphere in huge quantities. Thus ozone depletion, acid rains, atmospheric turbidity, water pollution, air pollution, *etc.*, are resulted.

Noise pollution is one of the environmental pollution. The human ear can safely respond to pressures up to 120 db. Any intensity higher than this is harmful and can damage the ear.

To Reconcile Development and Environment

The environmental pollution spreaded entire globe; land, rivers, seas, atmosphere and open space. Pearson Commission on International Development in its 1969 report connected: "Who can now say, where his country will be after a few decade without asking where the world will be?" Stockholm Declaration, 1972 admitted that development is must and necessary for human beings. At the same time we should prevent environmental pollution by taking "Precautionary Steps". The new method of Precautionary steps is called "Sustaianble Development". One must use his own rights but not to injure another's right or property. However, no person or no state was authority to invade upon others. Thermo Neuclear Reactors are established in plants. It is very dangerous, so it is decreased gradually.

Legislation

Every State has to take environmental legislation and implement strictly. The Indian

Parliament enacted the major and essential environmental laws. That is: Environment (Protection) Act, 1986, Water (Prevention and control of Pollution) Act 1981, The Air (Prevention and Control of Pollution) Act, 1974, Factories (Amendment) Act 1986 *etc.* Enacting the statutes is not sufficient, the laws must strictly be implemented.

Environmental Impact Assessment (EIA)

EIA means the assessment and analysis of the potential impact of various forms of human activities on the environment. Before undertaking major development project, the Governmental authorities and project persons study the ecological conditions

Constitution of site appraisal committees: According to Section 41A the State Government shall appoint a site appraisal committee. If the committee feels at necessary it may recommend the application or modify

or reject it in the interests of the people and environment.

Precautionary approaches:- The Stockholm Declaration, Nairobi Declaration, Rio Declaration, UNEP suggested that every Municipal Government should take precautionary steps to protect the environment at the time of granting permissions to the industries. The permission must be established in a non-habitation areas. *i.e.*, far away from the population.

Environmental Audit : Every country have already established Audit System for its income and expenditure. Comptroller and Auditor General is appointed by Central Government of India to audit the accounts of it. There must be an organized environmental Audit System for each State and Centre. It effectively regulates the pollution. It gathers data, statistics *etc.*, all over the State and country. It is an effective measurement to check the environmental pollution.

PENAL LIABILITY OF COMPANIES IN INDIA

By

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A company is a legal person distinct from its members and capable of entering into contracts on its own behalf, of owning property and being subject to liabilities.

The rule that a company is a separate legal entity from its members was firmly established in the case of *Salomon v. Salomon and Company Limited*, (1897) A.C. 22, in which case a sole trader, *Salomon*, formed a limited liability company and transferred his business to it. There were six other shareholders in the company, each of whom owned one share each. The sale price of the business was paid partly in cash and partly by the creation

of a debenture over the company's assets. The company subsequently went into liquidation and the liquidator brought an action for a declaration that, firstly that the debenture in favour of *Salomon* was void and, secondly, that the company was sham because it was formed in order to enable *Salomon* to avoid his legal obligations whilst allowing him to enjoy the profits of the company. *Salomon* was held not personally liable for the full debts of the company and moreover the debenture issued to him was held to be valid. Thus the Court will not look at the motive behind the formation of the company once it has been properly registered unless