

Participate in an educational program on donation provided by an organ procurement organization. If younger generation is aware of organ transplantation and organ donation then, we will be almost certain that, some day, some where they will or attempt to save a life. Establishment of specialized transplantation medicine units in every medical institution allotting certain number of beds for their smooth functioning.

IV. Proper Authorization Needed :—

The Chairman of the DMA, Dr. *Prem Aggarwal*, has said that kidney donation as well as transplantation service for patients of renal failure was governed by the Transplantation of Human Organ Act, 1994. Under the Act, the Central Government and the State Government should appoint an appropriate authority for enforcing the standards and governing and monitoring the Authorization Committee.

He further stated that under authorization the doctor has to furnish his photograph, identification number, and driving licence and

pass port. The photo has to be attested by Superintendent of Police or by the Deputy Commissioner of Police. The donor also has to submit an authorization from the guardian or his wife. The donor has to present an agreement with the patient on an affidavit attested by a sub-divisional Magistrate and Psychiatrist. The evaluation of the donor is also necessary. In fact, without the active participation of the donor and the donee, the Authorization Committee procedure can never be successfully completed²⁷.

V. Conclusion

The transplantation of an organ from one body to another is known as the organ transplant. This has been a boon to human race; however the supply of organs to its demand far more exceeds thereby leading to illicit trade of organs. Hence various laws to curb the illegal trade of organs have been introduced at various levels to encourage organ transplantation and enhance the utility of the same. Inclusion of topics in core curriculum of medical subject, social awareness will improve the deficit in the organs.

THE SUPREME COURT OF INDIA - HARBINGER OF THE ENVIRONMENTAL PROTECTION IN INDIA

By

—Dr. JETLING YELLOSA¹

In the entire universe among all creatures homosapiens (human beings) are considered as the most intelligent and also the most selfish gene. The human beings in his survival the innovated many new things and for it even ventured into spoiling his God blessed

and given pristine nature. In the words of Dasman, "Human race is likely an ape with hand granite. Nobody can say when he will pull the pin"². The world has awakened lately to save the almighty gift the nature for the first time in 1972 when the under aegis of

27. Tribune News Service

<http://www.tribuneindia.com/2004/20041008/delhi.htm>

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2. *Dasman R.F.* Environmental Conservation (New York, 1976) (See also Park C.C. Ecology and Environmental Management) (Butterworths, London, 1980, p.19)

the United Nations Organization the momentous the International Conference on the Environment was held in Swedish Capital, the Stockholm. In the conference the participating countries have agreed to initiate the Action Programme for the protection of Environment which includes the ways and means to control the growing pollution of the Mother Earth, air and of space³.

The concept of environment is as old as the concept of the nature itself. It is a composite term reflecting the conditions in which organisms consisting of air, water, food, sunlight *etc.*, thrive and become living sources of the life for all the living and non-living beings including plant life. Environment in its generic sense comprises of air, water, land and the things imbibed as also embedded in the land. Protection of these important elements of the Mother Earth from the environmental pollution caused by man is universally recognized to be a pressing and alarming need of the hour.

The Constitution is a sacrosanct document to any country in the world. In our country the preamble of the Constitution at outset provides that it is the duty of State to assure the dignity of the individual. In this process the part third of the Constitution provides the sacred rights of individuals in the form of fundamental rights. The State should all circumstances under absolute liability to protect the fundamental rights of its citizens. The Article 21 of the Constitution apparently refers to the protection of life and personal liberty by the State and nowhere words of environment or ecology appears in it, but the life and personal liberty basically depends upon if the citizens have hale and healthy pristine surroundings for it we should have unpolluted air, water, environment. It otherwise manifest that the life and personal liberty means and includes it subjects should have provided of pristine and fair environment.

The Constitution of India under part fourth under the heading of the Directive Principles of State Policy under Article 48A also castigates the duty on the State to protect and improve the environment. These obligations of the State are not justiable obligations towards citizens. Further the Part IVA of the Constitution of India deals with fundamental duties to be abided by every citizen under Article 51A(g) it is apparently enumerated that it is utmost duty of every citizen in the country to protect and improve the natural environment including forests, lakes, rivers and wild life. As per this every citizen is under constitutional obligations to protect and improve the environment and to accommodate the inner principles of it.

Our country had internationally obliged by the principles adopted in the Stockholm Conference on World Environment 1972 but she has taken valuable 15 years to transform the international obligations into the national validating act. It is irony to note that late Prime Minister Smt. *Indira Gandbi* who gave voluminous and ever remembering lecture on the world environment on platform of Stockholm Conference failed to bring the national legislation in spite of enacting the Environmental Protection Act in 1986 and there is rampant problems of pollutions everywhere in the country and the apex Court of land on part of private parties has been forced to interfere in protection of the environment when other two organs of the State the legislation and the executive have failed to oblige constitutional and statutory mandates.

The apex Court of our country since adoption of the Environmental Protection Act has delivered remarkable judgments with regard to the protection of environment in India. In one sense we can say that without interference of apex Court under doctrine of public interest litigation we would not have protected the environment in our country. From time and again the public-spirited persons and institutions have making a yeoman service in protecting and preserving the environment. The attitude of the apex Court

3. *Dr. Maheshwara Swamy N.* 'Law Relating to Environmental Pollution and Protection', Asia Law House Hyderabad. P.1.

of the land has considerably liberal with regard to protection of environment, which can be reflected by observing under mentioned some important cases.

In *Rural Litigation and Entitlement Kendra v. State of U.P.*,⁴ the Court has ordered the closure of certain limestone quarries on the ground that there were serious deficiencies in safety mechanisms and its adverse affect on the environment and people at large. This reflects that the apex Court is very strict in adherence of environmental laws and rules in the country.

In *M.C. Mehta v. Union of India (Shriram Food and Fertilizers)* case,⁵ the Supreme Court directed the company manufacturing hazardous and lethal chemicals and gases which was posing danger to health and life of workmen and people living in its neighbourhood and if any unwanted occurs such company comes under the principles of doctrine of absolute liability and such has absolute liability to pay damages to affected people.

In *M.C. Mehta v. Union of India (protection of Ganga Water case)*,⁶ the Court observed that under the Article 51A(g), the fundamental duty is castigated to every citizen to protect the environment and for which the Central Government should initiate steps that in every educational institution throughout India to teach at least for one hour in a week the lessons relating to the precautions and importance of the natural environment including forest, lakes, rivers, and wild-life, the local authorities to conduct programmes such as keep the city/town/village clean week on every year.

In *Bangalore Medical Trust v. Muddappa*,⁷ the apex Court held that for maintaining the proper ecology in the urban areas, open spaces and parks are indispensable and while framing town planning policies the respective

Governments must adhere to these principles of leaving open spaces in the urban areas.

In *Indian Council for Enviro-Legal Action v. Union of India*,⁸ in this case the apex Court held that even against a private person directions can be issued for violating the right of fundamental rights though those are only justifiable in hands of the State, and the Court in this case also enshrined the doctrine of polluter must pay and ordered that the polluter of the environment have legally bound to pay compensation to suffered and affected people.

Again the Supreme Court in *M.C. Mehta v. Union of India and others*,⁹ reiterated its position that persons and organizations who cause pollution to the environment have liable to pay compensation to affected persons.

In *Vellore Citizens Welfare Forum v. Union of India and others*,¹⁰ the apex Court gone further and ordered that if the polluter does not pay for his acts of polluting the environment in such scenario he has no right of running his organization and he must has to shut down the organization.

In *Narmada Bachao Andolan etc. v. Union of India and others*,¹¹ the Supreme Court with majority of voice held *inter alia*, 'that where the effect of setting up of an industry on ecology or environment is known, what has to be seen is that if the environment is likely to suffer, then what mitigative steps can be taken to off-set the same. Merely because there will be a change is no reason to presume that there then the principle of sustainable development would come into play which will ensure that mitigative steps are and can be taken to preserve the ecological balance'.

In *Murali S. Deora v. Union of India and others*,¹² the Hon'ble Supreme Court realizing

4. (1985) 2 SCC 431

5. (1986) 2 SCC 176

6. AIR 1986 SC

7. (1991) 4 SCC 54

8. (1996) 3 SCC 212

9. (1997) 2 SCC 41 (433)

10. AIR 1996 SC 2715

11. AIR 2000 SC 3751

12. (2001) 8 SCC 765, (766, 768)

of the gravity of situation and considering the adverse effects of smoking on the actual smokers and passive smokers, has prohibited smoking in public places and issued directions to the Union of India and State Governments to take effective steps to ensure prohibition of smoking in public places namely, auditoriums, hospital buildings, health institutions, educational institutions, libraries, Court buildings, public offices, public conveyances including Railways.

In *M.C. Mehta v. Union of India and others*,¹³ the Court held that rights accorded and provided in the Article 21 of the Constitution would override provisions of every statute including the Motor Accident Vehicles Act, if they militate against the constitutional mandate of Article 21.

In *K.M. Chinnappa, Applicant in T.N. Godavarma Thirumulpad v. Union of India and others*,¹⁴ the apex Court of land categorically stated that the duty is castigated upon the Government under Article 21 of the Constitution to protect the environment under any cost and the Government must adhere to two salutary principles with regard to the protection of the environment like the sustainable development and precautionary principles must be observed.

These above cases have a tip of the iceberg in the environmental jurisprudence interpreted and innovated by the apex Court. The apex Court has passed or passing innumerable remarkable judgments from time to time due to which only our country ecology and environment have not gone to haywire, otherwise we would be in most horrible situation. From last 25 years or so we have observing that the apex Court of the land became the harbinger of protector of the environment and ecology in India. There is also a lot of criticism from some quarters that in guise of environmental protection jurisprudence the apex Court is stepping into the shoes of Legislature and Executive, this argument some extent sounds valid but the Court is forced to enter when these two constitutional authorities have shrieked off their responsibilities of protection of the environment. The people have no other option to approach the judicial bodies for their own survival. The social and environmental activities like *Sunder Lal Bahaguna*, *M.C. Mehta*, *Medha Patkar etc.*, for their untiring, daring and dashing efforts to save the environment in India have got universal recognition and their contribution will be appreciated and recognized by generations to come.

**WHEN DOES TITLE IN IMMOVABLE PROPERTY PASS TO
THE TRANSFEREE ? IS IT ON EXECUTION OF THE DEED OR WHEN
THE REGISTRATION OF THE SAID DEED TAKES PLACE OR
AT WHAT POINT OF TIME ?**

By

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1. There seem to be some difference of opinion on this aspect. The general impression is that with the registration of the deed executed the title passes to the vendee, *i.e.*, the

right, title and interest in the property passes to the vendee.

2. On this aspect, recently two cases are decided by the A.P. High Court and are reported. In the decision in 2008 (3) ALT 760 = 2008 (4) ALD 545 *K.V. Sudharani and*

13. AIR 2001 SC 1948 (1950 to 1952)

14. AIR 2003 SC 724