ARTICLE 32 AND THE REMEDY OF COMPENSATION

By

—**Dr. G. YETHIRAJULU,** B.Sc., L.L.M., Ph.D.,
JUDGE OF HIGH COURT OF ANDHRA PRADESH

Compensation to victims is a recognised principle of law being enforced through the ordinary Civil Courts. Under the law of Torts the victims can claim compensation for the injury to the person or property suffered by them. It is taking decades for the victims to get a decree for damages or compensation through Civil Courts, which is resulting in so much hardship to them.

The emergence of compensatory jurisprudence in the light of human rights philosophy is a positive signal indicating that the judiciary has undertaken the task of protecting the right to life and personal liberty of all the people irrespective of the absence of any express constitutional provision and of judicial precedents.

The renaissance of doctrine of natural rights in the form of human rights across the globe is a great development in the jurisprudential field in the contemporary era. A host of International Covenants on the human rights and the concern for effective implementation of them, are radical and revolutionary steps towards the guarantee of liberty, equality and justice. Though the concept is new, the content is not and these rights have been recognised since ages and have become part of the constitutional mechanism of several countries. India recognised these rights under Part III of the Constitution providing remedies for enforcement of such rights.

Article 32 of the Constitution of India reads as follows:

> "*32. Remedies for enforcement of rights conferred by this Part.*—(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this part is guaranteed.
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> (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus, mandamus, prohibition, quo warranto and certiorari,* whichever may be appropriate, for the enforcement of any of the rights conferred by this part.
>
> (3) ...
>
> (4) ..."

Article 32(1) provides for the right to move the Supreme Court by appropriate proceedings for the enforcement of the fundamental rights. The Supreme Court under Article 32(2) is free to devise any procedure for the enforcement of fundamental right and it has the power to issue any process necessary in a given case. In view of this constitutional provision, the Supreme Court may even give remedial assistance, which may include compensation in "appropriate cases".

"Why should the Court not be prepared to forge new tools and devise new remedies for the purpose of vindicating the most precious of the precious fundamental right to life and personal liberty, Ibid, 930.

Regarding the liability of the State to pay compensation for infringing Article 21, the Court answered in the affirmative saying that if it were not so, the Article 21 will be denuded of its significant content. The Court further observed that where there are issues of the gravest constitutional importance involving as they do the exploration of a new dimension of the right to life and personal liberty, it has to lay down the correct implications of the constitutional right in Article 21 in the light of the dynamic constitutional jurisprudence, which the Court is evolving.

In *Sant Bir v. State of Bihar*, AIR 1982 SC 1470, the question of compensating the victim of the lawlessness of the State was left open.

In *Veena Sethi v. State of Bihar and others*, AIR 1983 SC 339, also the Court observed that the question would still remain to be considered whether the petitioners are entitled to compensation from the State Government for the contravention of the right guaranteed under Article 21 of the Constitution.

In the light of the views expressed by the Court in the above cases it can be said that the Court had shown its concern for the protection of right to life and liberty against the lawlessness of the State but did not actually grant any compensation to the victims.

The seed of compensation for the infraction of the rights implicit in Article 21 was first sowed in *Khatri v. Bihar*, AIR 1981 SC 928, *Sant Bifi and Veena Sethi,* Supra Note 20, which sprouted with such a vigorous growth that finally enabled the Court to hold that the State is liable to pay compensation. This dynamic move of the Supreme Court resulted in the emergence of compensatory jurisprudence for the violation of right to personal liberty through *Rudul Sah.* The Supreme Court of India in *Rudul Sah v. Bihar, Sant Bir v. State of Bihar,* AIR 1982 SC 1470, brought about a revolutionary breakthrough in the Human Rights Jurisprudence by granting monetary compensation to an unfortunate victim of State lawlessness on the part of Bihar Government for keeping him in illegal detention for over 14 years after his acquittal of a murder charge.

Till the pronouncement made in the above case, the Supreme Court was hesitating to recognise the principle of monetary compensation for violation of fundamental rights while acknowledging the inadequacy of conventional judicial remedies in this type of cases. The concern of the highest Court to do justice rather than mechanically applying the law based on precedents is reinforcing the credibility of the judiciary among the public, especially the helpless have-nots.

Though there is no express provision for awarding compensation under Article 32 of the Constitution of India, it is interesting to mention about the development of the law regarding the compensatory jurisprudence with reference to the experience in India and some other countries.

Article 5(5) of the European Convention for the Protection of Human Rights and Fundamental Freedoms provides that "everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation". This right must be provided for within the national legal system, that is, a remedy must be made available under the domestic law and enforceable in a domestic Court. The basic duty of the State is to ensure that a breach of Article 5 may be remedied by way of compensation in the domestic legal system. Where, under the law of a State the Convention forms part of the law of the land, there is less likelihood of difficulty in complying with this paragraph, but where "transformation" or specific adaption is required constitutionally, and if this has not occurred, a problem may arise. In the case of *Brogan and others* of 1988, the detention of the applicants had been in conformity with British Law but was ruled to have breached the Convention provisions. The Court rejected the UK Government's argument that "lawfulness" referred to in the text applied only to domestic law. Thus compensation was payable, and failure to provide this as of right resulted in a breach of the Article, See," Safeguarding the Liberty of the person recent Strasbourg jurisprudence" Jim Murdoch, International and Comparative Law Quarterly, Volume 42 Part 3 July, 1993. But even where the Convention is part of the law of

the land, the Human Rights Commission and Human Rights Court at Strasbourg have the duty to consider the legal effect of incorporation to ensure that the practical result was indeed to confer an effective right on individuals to compensation, a point made in the 1989 case of C/u//a, Judgment dated 22 Feb. 1989 European Court of Human Rights. Ser.A,No.148. Para 44. Mere incorporation or replication may not thus suffice.

Article 9(5) of the International Covenant on Civil and Political Rights of 1966 indicates that an enforceable right to compensation is not alien to the concept of enforcement of a guaranteed right. Article 9(5) reads as follows:

> "Any one who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

India adopted the covenant with a reservation regarding the enforceable right to compensation. The Declaration by the Government of India dated 10th April, 1979 in respect of Article 9(5) is as under:

> *Declaration II:* With reference to Article 9 of the International Covenant on Civil and Political Rights, the Government of the Republic of India takes the position that the provisions of the Article shall be so applied as to be in consonance with the provisions of clauses (3) to (7) of Article 22 of the Constitution of India. Further under the Indian legal system, there is no enforceable right to compensation for persons claiming to be victims of unlawful arrest or detention against the State.

The Supreme Court of India in *D.K. Bast/O.K. Basu v. State of West Bengal,* AIR 1997 SC 610, made the following observation with reference to the above Covenant

> The Government of India at the time of its ratification of International Covenant on Civil and Political Rights, in 1979 had made a specific reservation to the effect that the Indian legal system does not recognise a right to compensation for victims of unlawful arrest or detention and thus did not become a party to the Covenant. That reservation, however, has now lost its relevance in view of the law laid down by this Court in a number of cases awarding compensation for the infringement of the fundamental right to life of a citizen, Ibid.

Article 32 of the Constitution of India confers power on the Supreme Court to issue direction or order or writ, including writs in the nature of *habeas corpus, mandamus, prohibition, quo warranto and certiorari,* whichever may be appropriate, for the enforcement of any of the rights conferred by Part III of the Constitution. The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by Part III is 'guaranteed', that is to say, the right to move the Supreme Court under Article 32 for the enforcement of any of the rights conferred by Part III of the Constitution is itself a fundamental right.

The approach of redressing the wrong by award of monetary compensation against the State for its failure to protect the fundamental right of the citizen has been adopted by the Courts of Ireland, which has a written Constitution, guaranteeing fundamental rights, but which also like the Indian Constitution contains no provision of remedy of compensation for the infringement of those rights. That has, however, not prevented the Courts in Ireland from developing remedies, including the award of damages, not only against individuals guilty of infringement, but also against the State itself.

The enlightening observations of *O'Da/a/gn CJ* in the *State (At the prosecution of Quinn) v. Ryan, State (at the prosecution of Quinn) v. Ryan*, (1965) I R. 70 (122), deserve special notice. The learned Chief Justice said:

It was not the intention of the Constitution in guaranteeing the fundamental rights of the citizen that these rights should be set at naught or circumvented. The intention was that rights of substance were being assured to the individual and that the Courts were the custodians of those rights. As a necessary corollary, it follows that no one can with impunity set these rights at naught or circumvent them, and that the Court's powers in this regard are as ample as the defence of the Constitution requires.

In *Byrne v. Ireland, Byrne v. Ireland*, (1972) I R 241 at P.264, *Walsh* J. opined:

> In several parts of the Constitution, duties to make certain provisions for the benefit of the citizens are imposed on the State in terms which bestow rights upon the citizens and, unless some contrary provision appears in the Constitution, the Constitution must be deemed to have created a remedy for the enforcement of these rights. It follows that, where the right is one guaranteed by the State, it is against the State that the remedy must be sought if there has been a failure to discharge the constitutional obligation imposed.

In *Maharaj v. Attorney General of Trinidad and Tobago,* (1978) 2 All ER 670, the Privy Council while interpreting Section 6 of the Constitution of Trinidad and Tobago held that though not expressly provided therein, it permitted an order for monetary compensation, by way of redress for contravention of the basic human rights and fundamental freedoms. *Lord Diplock* speaking for the majority said:

> It was argued on behalf of the Attorney General that Section 6(2) does not permit of an order for monetary compensation despite the fact that this kind of redress was ordered in *Jaundoo v. Attorney General of Guyana.* Reliance was placed on the reference in the sub-section to 'enforcing, or securing the enforcement of, any of the provisions of the said foregoing sections' as the purpose for which orders *etc.* could be made. An order or payment of compensation, it was submitted, did not amount to the enforcement of the rights that had been contravened. In their Lordships' view an order for payment of compensation when a right protected under Section I 'has been' contravened is clearly a form of redress' which a person is entitled to claim under Section 6(1) and may well be the only practicable form of redress, as by now it is in the instant case. The jurisdiction to make such an order is conferred on the High Court by para (a) of Section 6(2), *Viz.* jurisdiction 'to hear and determine any application made by any person in pursuance of sub-section (1) of this section'. The very wide powers to make orders issue writs and give directions are ancillary to this.

Lord *Diplock* then went on to observe, See, n. 87 at p.680.

> Finally, their Lordships would say something about the measure of monetary compensation recoverable under Section 6 where the contravention of the claimant's constitutional rights consists of deprivation of liberty otherwise than by due process-of law. The claim is not a claim in private law for damages for the tort of false imprisonment, under which the damages recoverable are at large and would include damages for loss of reputation. It is a claim in public law for compensation for deprivation of liberty alone.

In *Simpson v. Attorney General* (*Baigent's* Case) 1994 NZLR 667, the Court of Appeal in New Zealand, dealt with the issue in a very elaborate manner by reference to a catena of authorities from different jurisdictions. It considered the applicability of the doctrine of vicarious liability for torts, like unlawful search, committed by the police officials which violate the New Zealand Bill of Rights Act, 1990. While dealing with the enforcement

of rights and freedoms as guaranteed by the Bill of Rights for which no specific remedy was provided. *Hardie Boys J* observed:

> The New Zealand Bill of Rights Act, unless it is to be no more than an empty statement, is a commitment by the Crown that those who in the three branches of the Government exercise its functions, powers and duties will observe the rights that the Bill affirms. It is I consider implicit in that commitment, indeed essential to its worth, that the Courts are not only to observe the Bill in the discharge of their own duties but are able to grant appropriate and effective remedies where rights have been infringed. I see no reason to think that this should depend on the terms of a written Constitution. Enjoyment of the basic human rights are the entitlement of every citizen, and their protection is the obligation of every civilised State. They are inherent in and essential to the structure of society. They do not depend on the legal or constitutional form in which they are declared. The reasoning that has led the Privy Council and the Courts of Ireland and India to the conclusions reached in the cases to which I have referred (and they are but a sample) is in my opinion equally valid to the New Zealand Bill of Rights Act if it is to have life and meaning.

The Court of Appeal relied upon the judgments of the Irish Courts, the Privy Council and referred to the law laid down in *Nilabathi Behera v. State of Orissa,* AIR 1993 SC 1960, thus:

> Another valuable authority comes from India, where the Constitution empowers the Supreme Court to enforce rights guaranteed under it. In *Nilabati Behera v. State of Orissa,* Ibid, the Supreme Court awarded damages against the State to the mother of a young man beaten to death in police custody. The Court held that its powers of enforcement imposed a duty to "forge new tools", of which compensation was an appropriate one where that was the only mode of redress available. This was not a remedy in tort, but one in public law based on strict liability for the contravention of fundamental rights to which the principle of sovereign immunity does not apply.

The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the Courts too much as protector and guarantor of the indefeasible rights of the citizens. The Courts have the obligation to satisfy the social aspirations of the citizens because the Courts and the law are for the people and expected to respond to their aspirations. The purpose of public law is not only to civilise public power but also to assure the citizen that they live under a legal system, which aims to protect their interests and preserve their rights.

Each of the five members of the Court of Appeal in *Simpson's* case, *Simpson v. Attorney General*, 1994 NZLR 667, delivered a separate judgment but there was unanimity of opinion regarding the grant of pecuniary compensation to the victim, for the contravention of his rights guaranteed under the Bill of Rights Act, notwithstanding the absence of an express provision in that behalf in the Bill of Rights Act.

In India, the judgment in *Rudul Sah v. State of Bihar*, AIR 1983 SC 1086, *added a new dimension to Judicial Activism and raised a set of vital questions, such as, liability of State to compensate for unlawful detention, feasibility of claiming compensation from the State under Article 32 for wrongful deprivation of fundamental rights, propriety of the Supreme Court passing an order for compensation on a habeas corpus petition for enforcing the right to personal liberty.*

The Supreme Court in the above case observed:

> It is true that Article 32 cannot be used as a substitute for the enforcement of rights and obligations, which can be enforced

> efficaciously through the ordinary processes of Courts, civil and criminal. A money claim has therefore to be agitated in and adjudicated upon in a suit instituted in a Court of lowest grade competent to try it. But the important question for our consideration is whether in the exercise of its jurisdiction under Article 32, this Court can pass an order for the payment of money if such an order is in the nature of compensation consequential upon the deprivation of a fundamental right.

The Court further observed:

> In the circumstances of the case the refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. Article 21, which guarantees the right to life and liberty, will be denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation, Ibid. p. 1089.

The Supreme Court had taken a different view in *Jiwan Mai Kochar v. Union of India*, AIR 1983 SC. 1107, by holding that the petitioner could not be granted the damages and compensation under Article 32 of the Constitution when the writ petition was filed challenging certain remarks made against him by the Supreme Court behind his back at the instance of the Respondents 3 to 10 in the writ petition and requested awarding of damages and compensation against the Union of India and other respondents including the State of Madhya Pradesh for all losses, direct or indirect, and humiliations and indignity suffered by him.

The power of the Supreme Court to deviate from traditional concepts and to formulate new rules for granting effective relief for violation of fundamental rights is traceable to Article 32. Regarding the ambit of clause (1) of Article 32, *Bhagavati,* J., in *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802, observed:

> There is no limitation in regard to the kind of proceeding envisaged in Article 32(1) except that the proceeding must be "appropriate" and this requirement of appropriateness must be judged in the light of the purpose for which the proceeding is to be taken, namely, enforcement of a fundamental right. The Constitution makers deliberately did not lay down any particular form of proceeding for enforcement of a fundamental right. They did not stipulate that such proceeding should conform to any rigid pattern or straight jacket formula as in England. They knew that in a country like India where there is so much of poverty, ignorance, illiteracy, deprivation and exploitation, any insistence on a rigid formula of proceeding for enforcement of a fundamental right, would become self-defeating and it would place enforcement of fundamental rights beyond the reach of common man. The entire remedy for enforcement of fundamental rights which the Constitution makers regarded as so precious and invaluable, and elevated to the status of fundamental right, would become a mere rope of sand so far as the large masses of the people of this country are concerned, Ibid at 814.

Article 32(2) also expressly provided that the Court may grant "appropriate" remedy for enforcing the rights. Hence the power can be traced to "appropriate" remedy under Article 32(2) of the Constitution of India.

The Court in *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802, emphasised

that while interpreting the Article the approach must be guided not by any verbal or formalistic canons of construction but by the paramount object and purpose underlying the article and its interpretation must receive illumination from the trinity of provisions which permeate and energise the entire Constitution, *viz.,* the preamble, fundamental rights and directive principles of state policy.

Regarding the power of the Supreme Court for the enforcement of fundamental rights the Supreme Court observed:

> It is not only the high prerogative writs of *mandamus, habeas corpus, prohibition, quo warranto* and *certiorari* which can be issued by the Supreme Court but also writs in the nature of these high prerogative writs and therefore even if the conditions for issue of any of these high prerogative writs are not fulfilled, the Supreme Court would not be constrained to fold its hands in despair and plead its inability to help the citizen who has come before it for judicial redress, but would have power to issue any direction, order or writ including a writ in the nature of any high prerogative writ, Ibid at 814.

The Supreme Court in *M. C. Mehta v. Union of India* (IIIrd *M.C. Mehta*), AIR 1987 SC 1086, reiterated its stand taken in *Rudul Sah,* that apart from issuing directions it can under Article 32 forge new remedies and fashion new strategies designed to enforce the fundamental right, Ibid at 1089. The Court went on to say, Ibid at 1091, that the power under Article 32 was not confined to preventive measure when the rights were violated. The Court further observed that a contrary position would rob Article 32 of the entire efficacy and render it impotent and futile, Ibid.

The most important point considered by the Bench was whether the Supreme Court could entertain claims for damages in respect of violation of fundamental rights and it was held that the Court had the power to award compensation in appropriate cases where,

The infringement of the fundamental right must be gross and patent, that is incontrovertible and *ex facie* glaring and either such infringement should be on a large scale affecting the fundamental rights of a large number of persons, or it should appear unjust or unduly harsh or oppressive on account of the poverty or disability or socially or economically disadvantaged position to require the person or persons affected by such infringement to initiate and pursue action in the Civil Courts.

The power given to the Supreme Court under Article 32, which itself is a fundamental right, imposes a constitutional obligation on the Court to forge such new tools, which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which enable the award of monetary compensation in appropriate cases, where that is the only mode of redress available. The contrary view would not merely render the Court powerless and the constitutional guarantee a mirage, but may, in certain situations, be an incentive to extinguish life, if for the extreme contravention the Court is powerless to grant any relief against the State, except by punishment of the wrongdoers for the resulting offence, and recovery of damages under private law, by the ordinary process. If the guarantee that deprivation of life and personal liberty cannot be made except in accordance with law, is to be real, the enforcement of the right in case of every contravention must also be possible in the constitutional scheme, the mode of redress being that which is appropriate in the facts of each case. This remedy in public law has to be made readily available when invoked by the have-nots, who are not possessed of the wherewithal for enforcement of their rights in private law, even though its exercise is to be tempered by judicial restraint to avoid circumvention of private law

remedies, where more appropriate, *Punjab and Haryana High Court Bar Association v. State of Punjab and others,* (1996) 4 SCC 742.

Regarding the liability of the State, the Supreme Court did not take cognizance of the doctrine of sovereign immunity while deciding cases involving violation of any fundamental right, and it has awarded compensation in a number of cases to the aggrieved persons whose fundamental rights have been violated.

Rudul Sah v. State of Bihar, AIR 1983 SC 1086, *Sabastin M. Hongray v. Union of India*, AIR 1984 SC 1026, *Bhim Singh v. State of J&K,* AIR 1986 SC 494, *Saheli v. Commissioner of Police, Delhi*, AIR 1990 SC 513, *Nilabathi Behera v. State of Orissa*, AIR 1993 SC 1960, are some of the cases in which the Court made the State liable for compensation in the form of public law remedy.

The applicability of the doctrine is not disputed by the Supreme Court in appropriate cases, which do not involve violation of any fundamental right.

In *Nilabathi Behera v. State of Orissa*, ibid, the Supreme Court observed:

> It may be mentioned straight away that award of compensation in a proceeding under Article 32 by this Court or by the High Court under Article 226 of the Constitution" is a remedy available in public law based on strict liability for contravention of fundamental rights to which the principle of sovereign immunity does not apply, even though it may be available as a defense in a private law in an action based on tort, Ibid, at para 10.
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> ...It is sufficient to say that the decision of this Court in *Kasturilal* upholding the State's plea of sovereign immunity for tortious acts of its servants is confined to the sphere of liability in tort, which is distinct from the State's liability for contravention of fundamental rights to which the doctrine of sovereign immunity has no application in the constitutional scheme and has no defense to the constitutional remedy under Articles 32 and 226 of the Constitution which enables award of compensation for contravention of fundamental rights, when the only practical mode of enforcement of the fundamental rights can be the award of compensation, Ibid.

There are several cases in which the Supreme Court and the High Courts made the State liable to pay compensation as a public law remedy ignoring the plea of the State about its immunity from liability.

The Supreme Court categorically observed that the defense of sovereign immunity is inapplicable and alien to the concept of guarantee of fundamental rights. There is no question of defense being available for constitutional remedy. It is a practical and inexpensive mode of redress available for the contravention made by the State, its servants, its instrumentalities, a company or a person in the purported exercise of their powers and enforcement of the rights claimed either under the statutes or licence issued under the statute or for the enforcement of any right or duty under the Constitution or the law, *Consumer Education and Research Center v. Union of India*, AIR 1995 SC 922.

In the hands of the Supreme Court the *Public Interest Litigation* in India has taken multi-dimensional character. The age-old adversarial system has been given a go-by. With the advent of judicial activism, letters, *D.K. Basu v. State of West Bengal.* AIR 1997 SC 610. Newspaper reports, *Paramananda Katara v. Union of India.* AIR 1989 SC 2039, complaints by public-spirited persons, *M.C. Mehta v. Union of India.* AIR 1987 SC 1086, social action groups, *Common Cause v. Union of India*, AIR 1997 SCW 1636., *Shiv Sagar Tiwari v. Union of India.* (1996) 6 SCC 599, bringing to the notice of the Court regarding violation of

fundamental rights were dealt with treating them as writ petitions and the relief of compensation was also granted through writ jurisdiction under Article 32 of the Constitution.

In respect of writ petitions of disputed facts the Supreme Court developed a theory of **Fact finding commissions**, *Nilabati Behera v. State of Orissa,* AIR 1993 SC 1960. *In re death of Savinder Singh Grover,* 1993 SCC (CrI) 1464, *People's Union for Civil Liberties v. Union of India,* AIR 1997 SC 1203. Usually the Supreme Court or High Courts do not take up the issues relating to disputed facts in writ proceedings. They consider only the question of law. When a matter with disputed fact is placed before the Court for consideration the Court refuses to take up such issue and direct the petitioner to approach a Civil Court for resolving the disputed question of fact. But in cases of claim for compensation through public law remedy under Article 32, the Supreme Court instead of making the petitioner to resort to the private law remedy, invented the process of fact finding commissions to inquire into the disputed facts and submit report before the Court to consider the correctness of the facts placed before the Court. By taking the aid of such report the Court is coming to a conclusion whether there is infringement of the right to life and personal liberty and whether it is a fit case to award compensation in writ proceedings.

The compensatory jurisprudence introduced by the Supreme Court of India by invoking powers under Article 32 gained tremendous importance in recent times due to the increase of the incidents of State lawlessness, *Rudul Sah v. State of Bihar*, AIR 1983 SC 1086, police lawlessness, *Saheli v. Commissioner of Police, Delhi*, AIR 1990 SC 513, custodial violence, *Sudha Rasheed v. Union of India,* 1995 (1) SCALE 77 (SC), violence in jails, *Nilabati Behera v. State of Orissa*, AIR 1993 SC 1960, unlawful detentions, *Arvinder Singh Bagga v. State of U.P.* AIR 1995 SC 117, and other violations. This innovation made by the Supreme Court is not only reducing the multiplicity of litigation but also helping the Courts to render speedy justice to victims of the imfringment of right to life and personal liberty.

NATURE AND NEXUS OF HAZARDOUS SUBSTANCES AND HAZARDOUS CHEMICALS UNDER THE ENVIRONMENT PROTECTION LAW - A CRITICAL ANALYSIS

By

—Dr. N. MAHESHWARA SWAMY,
Ph.D. (Law), L.L.M. (Labr. Law), M.A (Eco), IRPM & IPR (PG Dips), (MBA),
Assistant Professor, University College of Law, O.U.,
Hyderabad, A.P.

with

—N. RANJIT, B.E. (Chem. Engg.), M.S. (Natural Gas), (USA)

and

—N. CHAITHANYA, B.E. (Chem. Engg.)

INTRODUCTION

Environment (Protection) Act, 1986 (hereinafter called as the Act), is the main enactment covering provisions for protecting the Indian environment in various ways. Besides this, there are a catena of other enactments which protect the various