

## Environmental Legislation in India

### Background:

The need for the protection and conservation of the environment and the sustainable use of natural resources is reflected in the constitution of India as well as in the international commitments of India. The Indian Constitution under Part IVA (Art 51A-Fundamental Duties) gives upon the citizens of India a duty to protect and improve the natural environment including forests, rivers, lakes and wildlife and also to have compassion for living creatures. Further, under Part IV (Art 48A-Directive Principles of State Policies) of the Constitution of India, State shall endeavour to protect & improve the environment and safeguard the forests and wildlife of the country.

Several legislations on Environmental protection existed even before India got its Independence. However, the true pace for putting in force a well-developed framework came only after the UN Conference on the Human Environment (Stockholm, 1972). Post this Conference, the National Council for Environmental Policy and Planning was set up in 1972 within the Science and Technology Department of the Government of India with an aim for establishing a regulatory body for the overview of the environmental-related issues. This Council was later converted into the Ministry of Environment & Forests (MoEF).

MoEF was established in 1985, is the nodal administrative body in India with the task to regulate and ensure the environmental protection and further laying down the legal and regulatory framework to accomplish its task. Since the 1970s, many environment-related legislation has come up.

### The Air (Prevention and Control of Pollution) Act, 1981

- The act aims to control and prevent air pollution in India. It got amended in 1987
- Its main objectives are as follows:
  - To provide for prevention, control and abatement of the air pollution.
  - To provide for the establishment of the boards at the central and state levels with a view to implementing the Act (Central Pollution Control Board and State Pollution Control Board),
  - To confer on the Boards the powers and duties to implement the provisions of the act.
- The states should prescribe emission standards for industry and automobiles after consulting the central board and seeing its ambient air quality standards.
- It states that the sources of air pollution such as Internal combustion engine, industry, vehicles, power plants, etc., are not permitted to release particulate



matter, lead, carbon monoxide, sulfur dioxide, nitrogen oxide, volatile organic compounds (VOCs) or other toxic substances beyond a predetermined limit.

- It also empowers the State Government to designate air pollution areas. They have to prescribe the type of fuel to be used in these designated areas.
- According to it, it is required the consent of the State Board to operate certain types of industries including the asbestos, cement, fertilizer and petroleum industries.

### **The Water (Prevention and Control of Pollution) Act of 1974**

- Its objective is
  - to provide prevention and control of water pollution
  - maintaining or restoring of wholesomeness and purity of water in the various sources of water
- It vests regulatory authority in Centre Pollution Control Boards (CPCB) and State Pollution Control Boards (SPCB).
- It empowers CPCB and SPCB to establish and enforce effluent standards for factories discharging pollutants into water bodies.
- CPCB performs these same functions for Union Territories. It also formulates policies related to the prevention of water pollution and coordinates activities of different State Boards.
- SPCB control sewage and industrial effluent discharge by approving, rejecting or impose conditions while granting consent to discharge.

### **The Environment (Protection) Act of 1986**

- The Parliament of India passed the Environment Protection Act of 1986 under Article 253 of the Constitution. It was in the wake of the Bhopal Tragedy. It came into force on 19th November 1986.
- It is an “umbrella” for various environment legislations and organisation designed to give a framework for the coordination of various central and state authorities’ activities.
- It defines “Environment” in a broader sense to include water, air and land and the inter-relationships among them and human beings and other living creatures, plants, micro-organisms and property
- It was enacted to achieve the objective of the United Nations Conference on the Human Environment of 1972.
- Section (19) of this act provides that any person can file a complaint alleging an offence under this Act in the court with prior notice of 60 days to the competent authority.
- Central Government can make rules for the enforcement of the Act by giving notification in the Official Gazette.



## The Ozone Depleting Substances (Regulation and Control) Rules, July 2000

- These rules are framed under the jurisdiction of Environment (Protection) Act 1986.
- It set the deadlines for phasing out of various ODSs and regulating production, trade import and export of the product containing ODS.
- These Rules prohibit the use of CFCs, halons, ODSs such as carbon tetrachloride and methyl chloroform and CFC except in metered-dose inhaler and for other medical purposes.

## The Wild Life (Protection) Act of 1972

- The Wild Life Act provides for
  - Centre and state wildlife advisory boards.
  - regulations for hunting wild animals and birds.
  - establishment of the national parks.
  - sanctuaries and regulations for trade in wild animals, animal products and trophies.
  - judicially imposed penalties for violating the Act.
- It was amended in 1982 to permit the capture and transportation of wild animals for scientific research & management.
- Hunting of Species(endangered) listed in Schedule 1 of the Act is prohibited throughout India.
- This act provides for the regulation of species, like those requiring special protection (Schedule II), big game (Schedule III), and small game (Schedule IV) through licensing.
- A few species in Schedule V known as vermin which may be hunted.
- This act administered by the Wildlife wardens and their staff.
- The Indian government has also started some conservation projects under it for individual endangered species like project Hungal (1970), project Tiger (1973), project Crocodiles (1974), project vulture, Brown-antlered Deer (1981) and Elephant (1991-92,) Ganges Dolphin (1997), project Olive Riddley etc.

## The Forest (Conservation) Act of 1980

- In 1927, the first Forest Act was enacted to serve the purpose of British rule. It recognizes 4 categories of the forests, namely reserved forests, village forests, protected forests and private forests.
- Subsequently, in 1980, the Forest (Conservation) Act was promulgated to make certain reforms over the preceding Act of 1927. It was due to alarming India's rapid deforestation that resulting in environmental degradation



- It was enacted to consolidate the laws related to forest, the transit of forest produce and the duty leviable on timber and other forest produce.
- It empowered the State to declare forest lands or wastelands as reserved forest and it can sell the produce from these forests.
- It ensured the preservation of protected forests through rules, licenses and criminal prosecutions. Forest officers and their staffs administer the Forest Act.
- As per the provisions of this Act, prior approval of the Central Government is required for diversion of forestlands for non-forest purposes. For this, guidelines for compensatory land on the basis of net present value is made under CAMPA act.

