

## LEGAL PROVISIONS FOR ENVIRONMENT PROTECTION

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**1) Introduction:** Some countries have framed laws which help in protection of environment. For example, in China standing committee of the National People's Congress has passed laws concerning environmental protection. In Philippines and Srilanka have also passed a law for prevention and control of water pollution and series of antipollution laws and requirement of environmental impact assessment of all major projects. The republic of Korea adopted a charter for the Preservation of Nature in October 1978. In India also, the Government passed a law for requirement of environmental impact assessment of all major projects and made legal provisions for environment protection. In India different laws are passed about environment protection like, Wild life Protection Act -1972, The water (Prevention and Control of pollution) act 1974, Forest (Conservation) Act-1980, Environment protection act 1981, Environment Protection Act- 1982, Environment Protection act 1986 etc. Now a days balance of environment is going to be disturbed which is harmful for the life of the human being. So it is very important to follow the legal provisions of environment protection act. Education of these legal provisions should be given to the students from primary level. Legal provisions for protection of environment are discussed according to the different acts passed in India as below.

### 2) Legal Provisions:

**1) Environment Protection Act 1986:** In this Act in Chapter-I, definition of environment is given as, unless the context otherwise requires,--

(a) "Environment" includes water, air and land and the inter- relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;

In Chapter II SR. No. 6. Rules to regulate environmental pollution are given which are as below,

(1) The Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred to in section 3.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may

provide for all or any of the following matters, namely:--

- (a) The standards of quality of air, water or soil for various areas and purposes;<sup>4</sup>
- (b) The maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas;
- (c) The procedures and safeguards for the handling of hazardous substances;<sup>5</sup>
- (d) The prohibition and restrictions on the handling of hazardous substances in different areas;<sup>6</sup>
- (e) The prohibition and restriction on the location of industries and the carrying on process and operations in different areas;<sup>7</sup>
- (f) The procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents.<sup>8</sup>

In Chapter Sr. No. 15 of this act following penalty for contravention of the provision of the act are given,

(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

**II) Wild Life Protection Act -1972:** For maintain balance of environment wild animals are also important. The illegal trade in wildlife is a global issue. From animal parts, like tiger bones and musk glands to live reptiles, birds and ivory, poachers and smugglers illegally poach and traffic a variety of wild plant and animal species.

- The Government enacted a comprehensive legislation “Wild Life (Protection) Act, 1972” with objective of effective control by poaching and illegal trade in wildlife and its products.
- The Act has been amended in 1982, 1986, 1991, 2002, and in 2006 to make the provisions of the Act more stringent. Hunting of all species was banned in 1991.
- Realizing the global nature of the illegal wildlife trade, the “Conservation on International Trade in Endangered Species of wild fauna and flora” was signed at Washington on 3rd March, 1973. The Government deposited the instruments of ratification on 20th July, 1976. The provisions of the

Convention and the export policy of the country if effectively used, provide the Government with adequate legislative powers to deal with illegal wildlife trade.

Legal Protection Measures against hunting of wild animals is prohibited except for exceptional circumstances. The Wildlife Act prescribes stringent punishment for hunting and illegal trade from fine to imprisonment. These includes:

- i. For hunting and illegal trade in wild animals belonging to Schedule I and Part II of the Schedule II – Minimum 3 years imprisonment extendable to seven years and a minimum fine of Rs. 10,000/-
- ii. For hunting and illegal trade in wild animals belonging to other Schedules – Imprisonment up to three years or a fine up to Rs. 25,000/- or both. Such offences can also be compounded, the amount of composition not exceeding Rs. 25,000/-
- iii. For offences in relation to zoos, the punishment prescribed is imprisonment for up to six months or a fine of up to Rs. 2,000/- or with both.
- iv. In addition to the above punishments, the court trying the offence may also order the forfeiture of any equipment, vehicle or weapon to cancel any wildlife license or permit held by the person, as well as cancel the Arms license and debar for an Arms license for a period of five years.
- v. There is also a provision for Forfeiture of Property of offenders who are awarded sentence of three years or more of imprisonment.

### **III) Forest (Conservation) Act, 1980 with Amendments Made in 1988**

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto. Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:-

#### **1. Short title, extent and commencement.**

- (1) This Act may be called the Forest (Conservation) Act, 1980.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 25th day of October, 1980.

#### **2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.**

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.

*Explanation* - For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reforestation;

but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

### **3. Constitution of Advisory Committee.**

The Central Government may constitute a Committee consisting of such number of persons as h may deem fit to advise that Government with regard to-

(i) the grant of approval. under Section 2; and

(ii) any other matter connected with the conservation of forests which may be referred to h by the Central Government.

### **3A. Penalty for contravention of the provisions of the Act.**

Whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment for a period which may extend to fifteen days.

### **3B. Offences by the Authorities and Government Departments.**

(1) Where any offence under this Act has been committed -

(a) by any department of Government, the head of the department; or

(b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority; shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence

to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of; or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### **4. Power to make rules.**

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **5. Repeal and saving**

(1) The Forest (Conservation) Ordinance, 1980 is hereby replaced.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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

An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water. for the establishment, with a view to carrying out the purposes aforesaid, there are legal provisions which are stated below.

1. Constitution of of Central Board.
2. Constitution of state Boards.
3. Special Provision relating to giving of directions.

Notwithstanding anything contained in this Act where any Joint Board is constituted under section

13, -

(a) the Government of the State for which the Joint Board is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a matter within the exclusive territorial jurisdiction of the State;

(b) the Central Government alone shall be competent to give any direction under this Act where such direction relates to a matter within the territorial jurisdiction of two or more States or pertaining to a Union territory.

4. Power of state government to restrict the application of the act to certain area.

5. Power to obtain information.

6. Power to take sample of effluent and procedure to be followed in connection therewith.

7. Power of entry and inspection.

(1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place.

8. Prohibition on use of stream or well for disposal of polluting matter, etc.

9. Restriction on new outlets and new discharges.

10. Provision regarding existing discharge of sewage or trade effluent.

11. Refusal or withdrawal of consent by state board.

Penalties and Procedure:

Failure to comply with directions under subsection(2) or sub-section(3)of section20, or orders issued under clause(c)of sub-section(1) of 32 or directions issued under subsection(2) of section 33 or section 33 A

1. Penalty for contravention of provisions of section 24.

2. Penalty for contravention of section 25 or section 26.

3. Enhanced penalty after previous conviction.

4. Penalty for contravention of certain provisions of the act

5. Publication of names of offenders

**3) Conclusion:**It is very important to protect environment. For protection of environment legal provisions are done. But these legal provisions are not only sufficient to protect environment but also awareness about importance of protection of environment should be created among peoples as well as students from primary level to higher education. Especially such programs should be designed for student teachers in B. Ed. Colleges. Also legal awareness should be created about protection of environment.

**4) References:**

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2. Kayande-Patil Gangadhar V. (2008): *Environmental Education*, Chaitnya publication.
3. Saxena, Anand Behari (1983): *Review of Environmental Education Curricula at Primary Level*, (Unpublished, Diploma in Educational Studies dissertation) University of Leeds, Leeds.

