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Environmental Legislation and its Impact

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Abstract: In this 21st century, one of the greatest threats to our water resources comes from the pollution being generated by the various sources. While this is a worldwide problem but it is particularly severe in India due to increased population, lack of implementation of environmental legislation, unawareness amongst the group of people, leniency by the judicial authorities while addressing the cases of contempt of their orders, presence of audacity amongst the violators to the environmental laws. In India, where development is considered at the top priority by the government at the cost of damage to the environment, the problem of water pollution has to be addressed urgently in order to avoid large scale calamities. It is in this context that this study paper focused on the state of Madhya Pradesh looks at the Air and Water Acts implementation and execution of various orders issued by the NGT. This paper also suggests possible alternatives to overcome the existing lacunas so that ensure effective implementation of the Acts as well as orders of NGT. However, this paper is not having any intention to criticize the present functioning

of the official departments. On the other way, it is having a constructive intention to bring into the notices of the top decision making authorities regarding the present status of execution of legislation in our state. It is merely an effort to be brought into the notice of all concerned departments regarding the lack of implementation of the guideline framed by the NGT and the acts enacted by the Government of India. Since all data are procured under RTI Act 2005 hence it has fully certified and cannot be claimed counterfeit. Efforts have been made to produce all statistics and information collected from various authenticated sources, yet any minor variation cannot be overruled. This paper needs to have an urgent look at the issues raised therein.

Keywords: Environmental Legislation, pollution, judicial authorities, government

Introduction:

Comprising over 70 percent of the Earth's surface, water is undoubtedly the most precious natural resources that exist on our planet. Although we as human recognize this fact, we disregard it by polluting our

water bodies subsequently harming planet. Demand of water will become twice of its availability by the year 2030 which indicates severe water scarcity in the near future. If current trends continue, in two decades, 50% of aquifers will be at critical level and India could experience a drop of 6% in GDP growth due to water scarcity alone. Sources of major consumption of water are hospitals, hotels, restaurants, shopping malls, automobile industries, textile industries, food industry, rice mills and various other industries where water is used during the manufacturing process or supply. The sources of water pollutions are many and varied. They can be divided into two distinct categories i.e. *Point and Non point sources*. Point sources are those sources which are determinate and identifiable and occur when harmful substances are emitted directly into a body of water. For example, Industrial effluents. While Non point pollution are those sources which are indeterminate and not easily identifiable and deliver pollutants indirectly through environment changes. For example, when a fertilizer from a field is carried into a stream by rain in the form of run-off which in turn affects aquatic life. The technology exists for point sources of pollution to be monitored and regulated.

Fundamental Right

Right to clean and healthy environment is also a fundamental right which has been incorporated under article 21 of our constitution through various judicial pronouncements. A clean and healthy environment has important constituents including safe food and water supply, proper waste disposal and clean air. Over 30,000 water bodies have been encroached on in the country and our country generates 1, 50,000 tons of municipal solid waste every day. More than half of which is either dumped in

landfills or remain unattended. Increased amount of contamination in wastewater generated by various industries that is being flown in our water bodies without the proper treatment, therefore attention of policy makers was drawn and ultimately various laws and guidelines were issued by judicial bodies.

Water Law and Water Pollution: Relationship situation in India

In India the primary objective of any legislation is to ensure social justice and well being through enforcement of certain codes of conduct. Legislation for environment protection is also based on the recognition of the fact, it is necessary to abide by the requirements to prevent damage to the environment which is a common property. On this objective water law was enacted and it was never in dispute that water pollution comes within the ambit of water laws in India. Generally, the types of water pollution can be divided into following heads:- Natural pollution, Industrial pollution, Sewage pollution, Thermal pollution, Radioactive substance pollution, Surface water pollution and Ground water pollution.

Environment Legislation in India: Constitutional Framework

The 'Right to Life' contained in Article-21 of the Constitution of India includes the right to clean and human environment. It means we have the right to live in a clean and healthy environment. Article-38 of our Constitution requires State to ensure a social order for the welfare of people, which can be obtained by an unpolluted and clean environment only. Article-48A of the Constitution requires the State to adopt the Protectionist policy as well as Improvinistic Policy. Protectionist policy imposes ban on those things which lead to environmental

degradation, e.g. ban on use of leaded petrol, ban on use of plastic bags etc. Improvinistic policy refers to alternatives that can be used for improvement of environment, e.g. use of CNG or low sulphur fuel, tree plantation in industrial areas etc. Article-48A of the Constitution declares "The State shall endeavor to protect and improve the environment and safeguard forests and wildlife of the country." Article-51A (g) of the Indian Constitution says: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures."

There are some important following environmental Laws in India:-

1. The Water (Prevention and Control of Pollution) Act, 1974:

The Water (Prevention and Control of Pollution) Act was enacted in 1974 to provide for the prevention and control of water pollution, and for maintaining or restoring of wholesomeness of water in the country. This is the first law passed in India whose objective was to ensure that the domestic and industrial pollutants are not discharged into rivers, and lakes without adequate treatment. The reason is that such a discharge renders the water unsuitable as a source of drinking water as well as for the purposes of irrigation and support marine life. In order to achieve its objectives, the Pollution Control Boards at Central and State levels were created to establish and enforce standards for factories discharging pollutants into water bodies. Others act as follows The Water (Prevention and Control of Pollution) Rules, 1975. The Water (Prevention and Control of Pollution) Cess Act, 1977. The Water (Prevention and Control of Pollution) Cess Rules, 1978

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

The Air (Prevention and Control of Pollution) Act, 1981 was enacted to provide for the prevention, control and abatement of air pollution in India. It is a specialized piece of legislation which was enacted to take appropriate steps for the preservation of natural resources of the earth, which among other things include the preservation of the quality of air and control of air pollution. The prime objectives of the Act are the following: Prevention, control and abatement of air pollution; Establishment of central and state pollution control boards to implement the aforesaid purpose; and to maintain the quality of air.

6. The Air (Prevention and Control of Pollution) Rules, 1982

3. The Environment Protection Act, 1986:

It was the Bhopal Gas Tragedy which necessitated the Government of India to enact a comprehensive environmental legislation, including rules relating to storing, handling and use of hazardous waste. On the basis of these rules, the Indian Parliament enacted the Environment Protection Act, 1986. This is an umbrella legislation that consolidated the provisions of the Water (Prevention and Control of Pollution) Act of 1974 and the Air (Prevention and Control of Pollution) Act of 1981. Within this framework of the legislations, the government established Pollution Control Boards (PCBs) in order to prevent, control, and abate environmental pollution. The objective of the Environment Protection Act is to protect and improve the environment in the country.

4. The Noise Pollution (Regulation and Control) Rules, 2000:

There was no direct provision for 'noise pollution' under the Environment Protection Act, 1986 or any other legislation. The increasing ambient noise levels in public places from various sources like industrial activity, generator sets, loud speakers, vehicular horns etc. have harmful effects on human health. It was the need of the hour to come with a law which would regulate and control noise producing sounds with the objective of maintaining the ambient air quality standards in respect of noise. Therefore, the Central Government framed 'The Noise Pollution (Regulation and Control) Rules, 2000'. These rules have been laid down by the government to reduce environmental noise pollution. Certain standards, such as the ambient air quality standards, have been set by the government. The permissible levels of noise are different for different areas, such as industrial, commercial, residential areas and silence zones (area within the vicinity of hospitals, educational institutions or courts).

5. The Public Liability Insurance Act, 1981:

This Act aims to provide immediate relief to the persons affected by accident occurring while handling any hazardous substance. It provides that every owner shall take out, before he starts handling any hazardous substance, one or more insurance policies providing for contracts of insurance. The objective of taking insurance is that the compensation resulting from the possible future accident is guaranteed. The collector of the area has been empowered to verify the occurrence of any accident at any place within his jurisdiction and also cause publicity to be given for inviting applications from the victims for any compensation. Apart from the insurance contract, the funding for the purpose of compensation is also generated by the

Central Government by the establishment of "Environment Relief Fund." This fund may be utilized by the collector for paying the compensation.

6. The National Environment Tribunal Act, 1995:

This Act is aimed to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expedition disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected with it. The beauty of this Act lies in the fact that the liability of the owner of hazardous substance has been made strict in case of any accident and the resultant injury to public. In any claim for the compensation, the claimant is not required to plead and establish that the death, injury or damage in respect of which the claim has been made was due to any wrongful act, neglect or default of any person. So, the burden of proof does not rest upon the claimant of compensation which is a big relief for the victims.

7. The National Environment Appellate Authority (NEAA) Act, 1997:

The National Environment Appellate Authority (NEAA) was set up by the Ministry of Environment and Forests to address cases in which environment clearance is required in certain restricted areas. It was established by the National Environment Appellate Authority Act 1997 to hear appeals with respect to restriction of areas in which any industries, operations, processes or class of industries, operations or processes shall or shall not be carried out,

subject to certain safeguards under the Environment Protection Act, 1986.

8. The Ozone Depleting Substances (Regulation and Control) Rules, 2000:

The Ozone Depleting Substances (Regulation and Control) Rules have been laid down for the regulation of production and consumption of ozone depleting substances. The main objective of this rule is protection of the Ozone layer. The rule restricts unauthorized sale, purchase, import, export and use of ozone depleting substance. 'Ozone Depleting Substance.

Pollution Control Boards In India:

The Pollution Control Boards are statutory bodies constituted with an objective to protect and promote the atmosphere and to control pollution.

(a) The Central Pollution Control Board
The Central Pollution Control Board (CPCB) a statutory organization, was constituted in September, 1974 under the Water (Prevention and Control of Pollution) Act, 1974 to deal with the rise in pollution.

Principal functions of the CPCB:

- (i) To promote cleanliness of streams and wells in different areas of the States by prevention, control and abatement of water pollution, and
- (ii) To improve the quality of air and to prevent, control or abate air pollution in the country. Other Functions of the Central Board Advise the Central Government on any matter concerning prevention and control of water and air pollution and improvement of the quality of air. Plan and

cause to be executed a nation-wide programme for the prevention, control or abatement of water and air pollution. Provide technical assistance and guidance to the State Boards, carry out and sponsor investigation and research relating to problems of water and air pollution, and for their prevention, control or abatement. Prepare manuals, codes and guidelines relating to treatment and disposal of sewage and trade effluents as well as for stack gas cleaning devices, stacks and ducts. Lay down or modify (in consultation of the State Governments), the standards for streams or wells and lay down standards for the quality of air.

(b) The State Pollution Control Boards
The State Governments also have their Pollution Control Boards Functions of State Boards are :-

- (i) To advise the State Government on matter relating to pollution and on 'sitting' of industries;
- (ii) To plan programmes for pollution control;
- (iii) To collect and disseminate information;
- (iv) To carry out inspection of polluting industries and areas;
- (v) To lay down effluent and emission standards; and
- (vi) To issue consent to industries and other activities for compliance of prescribed emission and effluent standards

Data procured under RTI regarding the consents obtained by the industries/proponents/Occupiers etc.

Considering the NGT orders on various subjects i.e. ETP, STP, Ground water etc. The following data were obtained under the RTI Act from the various Regional Offices of the Pollution Control Board of MP:-

1. Regional Office, Bhopal

Total No. of Residential/Commercial Projects in Bhopal	163
Total No. of projects not obtained CCA	117
Total No. of projects obtained CCA	46
Court cases filed under Acts	09
Ground water NOC obtained	NA
Total No. of Automobile service centres	75
Service Centre obtained CCA	25
Service centre not obtained CCA	50
Court cases filed	06
Ground water NOC	NA
Total No. of Hotel/Restaurants/ Banquets	108
Total units obtained CCA from the Board	57
Not obtained CCA (Validity expired)	41
Court cases filed under acts	NA
Ground water NOC obtained	Nil
Total No. of marriage halls	90
Halls not taken renewal	27
Total No of valid marriage halls	69
EC imposed	Nil
Ground water NOC	Nil
(DATA procured till End of year 2023)	

2. Regional Office, Indore

Total No. of Residential/Commercial Projects in Bhopal	293
Total No. of projects not obtained CCA	191
Total No. of projects obtained CCA	102
Court cases filed under Acts	Nil
Ground water NOC obtained	NA
Total No. of Automobile service centre	88
Service Centre obtained CCA	74
Service centre not obtained CCA	14
Court cases filed	Nil
Ground water NOC	NA
Total No. of Hotel/Restaurants/ Banquets	160
Total units obtained CCA from the Board	106
Not obtained CCA (Validity expired)	54
Court cases filed under acts	20
Ground water NOC obtained	01
Total No. of marriage halls Included in above	
(DATA procured till End of year 2023)	

3. Regional Office, Sagar

Total No. of Residential/Commercial Projects in Bhopal	42
Total No. of projects not obtained CCA	39
Total No. of projects obtained CCA	03
Court cases filed under Acts	Nil
Ground water NOC obtained	NA
Total No. of Automobile service centre	66
Service Centre obtained CCA	54
Service centre not obtained CCA	12
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	114
Total units obtained CCA from the Board	62
Not obtained CCA (Validity expired)	52
Court cases filed under acts	Nil
Ground water NOC obtained	Nil
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

4. Regional Office, Singrauli

Total No. of Residential/Commercial Projects in Bhopal	Nil
Total No. of projects not obtained CCA	Nil
Total No. of projects obtained CCA	Nil
Court cases filed under Acts	Nil
Ground water NOC obtained	NA
Total No. of Automobile service centre	16
Service Centre obtained CCA	10
Service centre not obtained CCA	06
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	12
Total units obtained CCA from the Board	Nil
Not obtained CCA (Validity expired)	Nil
Court cases filed under acts	Nil
Ground water NOC obtained	Nil
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

5. Regional Office, Ujjain

Total No. of Residential/Commercial Projects in Bhopal	10
Total No. of projects not obtained CCA	07
Total No. of projects obtained CCA	03
Court cases filed under Acts	Nil
Ground water NOC obtained	01

Total No. of Automobile service centre	40
Service Centre obtained CCA	21
Service centre not obtained CCA	19
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	127
Total units obtained CCA from the Board	30
Not obtained CCA (Validity expired)	97
Court cases filed under acts	Nil
Ground water NOC obtained	Nil
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

6. Regional Office, Guna

Total No. of Residential/Commercial Projects in Bhopal	03
Total No. of projects not obtained CCA	01
Total No. of projects obtained CCA	02
Court cases filed under Acts	Nil
Ground water NOC obtained	01
Total No. of Automobile service centre	13
Service Centre obtained CCA	10
Service centre not obtained CCA	03
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	29
Total units obtained CCA from the Board	13
Not obtained CCA (Validity expired)	16
Court cases filed under acts	Nil
Ground water NOC obtained	01
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

7. Regional Office, Jabalpur

Total No. of Residential/Commercial Projects in Bhopal	26
Total No. of projects not obtained CCA	23
Total No. of projects obtained CCA	03
Court cases filed under Acts	Nil
Ground water NOC obtained	01
Total No. of Automobile service centre	55
Service Centre obtained CCA	23
Service centre not obtained CCA	32
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	NA
Total units obtained CCA from the Board	NA

Not obtained CCA (Validity expired)	NA
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

8. Regional Office, Katni

Total No. of Residential/Commercial Projects in Bhopal	06
Total No. of projects not obtained CCA	06
Total No. of projects obtained CCA	Nil
Court cases filed under Acts	Nil
Ground water NOC obtained	01
Total No. of Automobile service centre	15
Service Centre obtained CCA	15
Service centre not obtained CCA	32
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	25
Total units obtained CCA from the Board	25
Not obtained CCA (Validity expired)	Nil
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

9. Regional Office, Satna

Total No. of Residential/Commercial Projects in Bhopal	05
Total No. of projects not obtained CCA	01
Total No. of projects obtained CCA	04
Court cases filed under Acts	Nil
Ground water NOC obtained	Nil
Total No. of Automobile service centre	15
Service Centre obtained CCA	13
Service centre not obtained CCA	02
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	49
Total units obtained CCA from the Board	40
Not obtained CCA (Validity expired)	09
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

10. Regional Office, Rewa

Total No. of Residential/Commercial Projects in Bhopal	10
Total No. of projects not obtained CCA	07
Total No. of projects obtained CCA	03
Court cases filed under Acts	Nil
Ground water NOC obtained	Nil
Total No. of Automobile service centre	18
Service Centre obtained CCA	07
Service centre not obtained CCA	11
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	103
Total units obtained CCA from the Board	57
Not obtained CCA (Validity expired)	46
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

11. Regional Office, Shahdol

Total No. of Residential/Commercial Projects in Bhopal	12
Total No. of projects not obtained CCA	12
Total No. of projects obtained CCA	Nil
Court cases filed under Acts	Nil
Ground water NOC obtained	Nil
Total No. of Automobile service centre	NA
Service Centre obtained CCA	NA
Service centre not obtained CCA	NA
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	NA
Total units obtained CCA from the Board	NA
Not obtained CCA (Validity expired)	NA
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

12. Regional Office, Chhindwada

Total No. of Residential/Commercial Projects in Bhopal	12
Total No. of projects not obtained CCA	12
Total No. of projects obtained CCA	Nil
Court cases filed under Acts	Nil
Ground water NOC obtained	Nil
Total No. of Automobile service centre	32
Service Centre obtained CCA	14

Service centre not obtained CCA	18
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	57
Total units obtained CCA from the Board	18
Not obtained CCA (Validity expired)	39
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

13. Regional Office, Mandideep

Total No. of Residential/Commercial Projects in Bhopal	03
Total No. of projects not obtained CCA	01
Total No. of projects obtained CCA	02
Court cases filed under Acts	Nil
Ground water NOC obtained	01
Total No. of Automobile service centre	07
Service Centre obtained CCA	05
Service centre not obtained CCA	02
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	101
Total units obtained CCA from the Board	48
Not obtained CCA (Validity expired)	53
Court cases filed under acts	Nil
Ground water NOC obtained	NA
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

14. Regional Office, Gwalior

Total No. of Residential/Commercial Projects in Bhopal	28
Total No. of projects not obtained CCA	23
Total No. of projects obtained CCA	05
Court cases filed under Acts	Nil
Ground water NOC obtained	04
Total No. of Automobile service centre	32
Service Centre obtained CCA	16
Service centre not obtained CCA	16
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	49
Total units obtained CCA from the Board	26
Not obtained CCA (Validity expired)	23
Court cases filed under acts	Nil

Ground water NOC obtained 01
Total No. of marriage halls Included in above
(DATA procured till End of year 2023)

15. Regional Office, Dhar

Total No. of Residential/Commercial Projects in Bhopal	NA
Total No. of projects not obtained CCA	NA
Total No. of projects obtained CCA	NA
Court cases filed under Acts	NA
Ground water NOC obtained	NA
Total No. of Automobile service centre	46
Service Centre obtained CCA	38
Service centre not obtained CCA	08
Court cases filed	Nil
Ground water NOC	Nil
Total No. of Hotel/Restaurants/ Banquets	20
Total units obtained CCA from the Board	12
Not obtained CCA (Validity expired)	08
Court cases filed under acts	Nil
Ground water NOC obtained	01
Total No. of marriage halls Included in above (DATA procured till End of year 2023)	

Procedural Shortcomings

As per the data procured under RTI from various regional offices of the MP State Pollution Control Board, the following procedural shortcomings revealed as under:-

(a) Very smallest amount of industries, institutions, organizations etc those require to obtain CCA (CTE/CTO) under Air and Water Acts, has obtained CCA. Most of industries have not renewed their consents after validity is expired.

(b) There is no strict procedure being followed by the board to cross check the CCA validity, implementation of NGT orders on ETP, Obtaining of Ground Water NOC, and imposition of environmental compensation on violators.

(c) Despite having the official memorandum to obtain environmental permissions from statutory bodies, most of the project proponents has not obtained CTE and CTO in time and there is no such regular

inspection by the board to cross check execution of environmental legislations.

(d) The importance to the offices engaged to implement environmental laws are not given and instructions issued on time to time by the departments are being ignored by most of the industries and financial institutions.

Flaws and Lacunas

The report reveals the following flaws and lacunas:-

(a) There is no proper system of monitoring in regular intervals.

(b) No proper compliance of NGT orders issued on ETP/STP, Ground water etc. (order Nos 593/2017, 400/2017, 158/2016)

(c) Most of the occupiers are not fully aware of the orders and directions issued on the above subjects.

(d) Since the number of cases filed against the violators under EPA 1986 are negligible, the amount of compensation is not considerable.

Conclusion and suggestions:

From the above parts of this paper, it is clear that the situation in the state of MP in terms of implementation of environmental legislations and orders of the various courts/tribunals is not appreciable. The reasons for this are many but the root cause, as the writer feels, is negligence towards the execution of the rules, guidelines and office orders. The availability of the staff to work in the offices of the board is very much critical and it is also not to be denied that the executive officers face political and administrative pressures to take actions against the violators.

The planning to execute various guidelines is also defective thus the result is not obtained as per the requirements. The government of India has provided large numbers of environmental laws and

designated the officials to perform them, but enthusiasm to work is not found reasonable. This paper mentioned about the duties of the Pollution Control Boards and both should have daring to act upon their duties as per the provisions. The officials should be dedicated towards their duties with loyalty and honesty and for this, necessary training should be imparted to them.

Above all, it is necessary to make the best out of the existing conditions by generating social awareness about environment by forming committee of the devoted environmentalists, social activists and experts and the state government should take benefit of their knowledge and experiences.

References:

EPA 1986, Air Act 1981, Water Act 1974,
RTI ACT 2005.