



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Control of Pollution and Remediation: In Judicial Perspectives of India

- Aswath Narayan M G

Introduction: Pollution control, in environmental activity, any of variety of means employed to limit damage done to the environment by discharge of harmful substances and energies. Means of pollution control might include refuse disposal system such as sanitary landfills, emission control system for automobiles, sedimentation tanks in sewage system. Pollution remediation or environmental remediation is a method of remaining harmful containments from our environments. It is a approach aimed at reducing containments from soil and water or areas exposed at radiation. The remediation process includes cleaning up hazardous substances by removing, treating, or containing them in environmental media such as soil, groundwater

Pollution control: Judicial perspective

For a long period of time, the enactments of Water and Air Acts, industries were invariably disregarding the direction of pollution control boards and violating the conditions of consent with impunity. The Boards, agencies envisaged to control pollution, stood helpless witnesses to these tragic happenings.

1. Strengthening pollution control agencies:

The Ganga Pollution's case is a specific illustration wherein the Supreme court noticed utter indifference of the tanneries, and ordered to stop the discharging of trade effluents into the river Ganga. It rightly held that the immense adverse effect on the public at large by the discharge of trade effluents would outweigh any inconvenience caused to the polluting entities on account of the closure. Specific directions were issued to the tanneries either to set up the permanent treatment plant (PTP). The Central Government, state pollution control board and the district magistrate were asked to monitor the enforcement of its order. Assignment of such a watch-dog function to the authorities was unprecedented. It gave them more awareness and strength for taking up anti-pollution measures.

2. Lethargy of Boards:

Courts were in their criticism at the lethargy of boards in taking coercive action against violation of the law. In *Uttar Pradesh Pollution Control Board v Modi Distillery* the limits and extent of the prosecuting power were the issue. The case also raised the questions of efficiency of criminal sanctions against the offences of the pollution, and

sought more commitment on the part of the pollution control agencies in initiating prosecution. In this case, the respondents, an industrial unit of a company, Modi Industries Limited, was being prosecuted for discharging noxious trade effluents without the consent of the state pollution control board.

The supreme court was of the view that such technical flaws could have been corrected by an amendment of the complaints. The officer bearers of a company are deemed to be guilty of the offences committed by the company. It is regrettable that due to sheer negligence of the board and its legal advisors, large business houses were allowed to escape with impunity the consequences of breaches of the provisions of law committed by them.

The Water Act empowers the board to grant consent to discharge effluents after laying down certain conditions. Narula Dyeing and Printing works also raised the discharge of effluents either without consent or in violation of consent. The Gujarat High Court stressed the need to comply with all conditions and observed.

Pollution of air by emission from a factory becomes a cause not only of nuisance, but also of unhygienic conditions of the locality. In a case black smoke emitting from a cashew factory adversely affected the health of the people. It is amazing that the factory did not care to obtain consent under the Water and Air Acts, nor did it obey the directions to increase the diameter and height of its chimney, plant trees in the property of the factory, and to keep the surrounding clean.

Pollution Remediation: Judicial Control on Different kinds of Pollution Standards of Emission

1. Vehicular Pollution- Odd-even Scheme:

In order to rescue vehicular pollution, a scheme of allowing vehicles with odd and even registration number ply only on alternate days was introduced. The court held that there shall be no exemption to any person, officer and individual and to the two-wheeler is granted for the time being.

2. Change- over to BS-IV Complaint Vehicles:

BS-IV complaint vehicles throughout the country. Remarkably, it marks a historic moment of victory in the fight against vehicular pollution and in the several attempts to make the country cleaner. The court minced no words when it directed that no manufacturer or dealer shall sell any two-wheeler, three-wheeler, four-wheeler or commercial vehicles that are not BS-IV compliant on and from 1 April 2017. With firm determination, the central government had issued various orders for nationwide exercise for change to BS-IV compliance. The court underscored this determination.

3. Dumping of Water:

In *MC Mehta v UOI* the local administration as well as the municipal authorities including the zonal commissioners, deputy zonal commissioner in Delhi and NCR region shall be personally held responsible hazards arising from for demolition and construction activities. They have to act in furtherance of the court's order and to

ensure that no such activity takes place. With regard to continuance of use of coal - based industries; the concerned persons including zonal deputy commissioner would be liable for contempt of court.

Conclusion: Judiciary has played a crucial role in strengthening pollution control measures in India by Environmental laws and regulations. By criticizing the lethargy of pollution control board and taking strict stance against polluters, the courts have ensured stricter enforcement of environmental law.

Key takeaways from judicial interventions include:

1. Empowering pollution control agencies
2. Holding polluters accountable
3. Promoting technological advancement (BS-IV)

These interventions have significantly improved India's environmental protection efforts on India.

i

ⁱBy

Dhwisha Bhatt, Judicial approach towards noise pollution, Law time journal, May 13, 2021,

[Judicial approach towards noise pollution - Law Times Journal](#)

Dr. PK Rana, Constitutional and judicial perspectives on environment protection,

November 2016, **[2-6-34-789.pdf \(lawjournals.org\)](#)**