JUDICIAL INTERPRETATION ON INDUSTRIALISATION AND SUSTAINABLE DEVELOPMENT

K. C. Jena

Industrialisation
Sustainable development

Paper presented in International Conference on Environment, Energy and Development (from Stockholm to Copenhagen and beyond)
December 10 - 12, 2010, Sambalpur University
Towards end of last century, linkage between development and environment became a much discussed topic. Hence World Commission on Environment and Development called for adoption of a global strategy of sustainable development. The environmental problems of poor countries like India become acute and they deserve immediate attention in terms of planning and investment programs. In Doon Valley case, supreme court reconciled the conflict between development and conservation and reaffirmed that development is not antithetical to environment and conservation. Both can co-exist with interplay of mutually supportive parameters. The objection of all laws on environment should be, to create harmony between two, since neither one can be sacrificed at the alter of other. The courts are pushing up the right to a healthy environment in the hierarchy of human rights by recognizing it as ‘fundamental right’. Every citizen should not forget his constitutional duty to protect natural habitat and ecosystem. To maintain balance between ecology and development, environmental legislations should be amended where necessary, industries generating high pollution be moved out of perimeters of citizen; industrial policy be updated and regular monitoring of pollutants be devised by establishing national network of sampling situation. Because country can develop only when ecological sustainability and social equity are guaranteed.
INTRODUCTION

Man’s survival on his dear planetary home depends on his harmony with Nature. The Science has made great advance but if it is abused edaciously to squeeze maximum profit in the short-run, then it will imperil the very right to life. Capitalist rapacity and exploitative industrialization in reckless disregard of environmental values and ecological balance have however reserved the process and made super technology society’s enemy. If these perverse trends were not arrested, then Mother Earth will become the graveyard of the human species and of all living creatures. This catastrophe is no longer distant danger judged by the way natural resources are being bankrupted, environmental pollution is being accelerated and ecological annihilation is being promoted.

Nature constitutes the environment or the ecology of men. Not only the beauty but the very existence of life depends upon nature. The famous hymn in the world’s oldest scripture the Rig Veda portrays the beauty of the morning (USHA) and worships its glory. Our ancestors were worshippers of nature, because worship is a form of the greatest admiration for them in nature. This healthy approach of man to nature later suffered on eclipse with the growth of population, increasing pressure on natural resources. Poet Milton has remarked rightly that Nature only pours her bounties, when man loved her. But in his pursuit of faster and faster economic exploitation of natural resources, without any serious consideration of the ecological consequences, man has been upsetting this equilibrium and destroying his life’s support system.

We know that environmental problems are complicated one and their solution will not come easily. The situation is getting alarming day by day. It is for this reason environmental issues are intensively debated, increasingly reflects public concern over vital issues such as clean water and air, conservation of forests and wild life, increasing noise and depletion of other natural resources. Dehumanised industrialization with profit oriented motto and ecological insensitivity attacks nature and poisons or depletes all gifts of nature like land water and air.

Although the world is not environmentally uniform and the nations differ in environmental resources but degradation of the environment affects all the nations, which requires a resolve on the part of them to conserve and protect the environment not only for the present generation but for the future as well.

The present paper highlights some of the environmental problems due to industrialization, history of industrialization in Orissa and its impact, industrialization and sustainable development, environment and industrial policy, judicial interpretation on Industrialization and a concluding remark with some suggestive measures to protect the environment.

Industrialisation and related problems

Today, India has become the 10th largest industrial nation of the World. But at the same time, it is one of the most polluted countries of the world as far as Industrial pollution and hazardous waste are concerned. The general indifference of industries on aspects of environmental safety and protection has led to the spread of avoidable air, water and soil pollution. The real problem faced by us is from the unregulated industrial development. The largest volume of discharged waste is in the form of liquid effluents, for almost all industries use and discharge water at some stage of their manufacturing process. The industrial effluents which get distributed in the aquatic environment through different ways contain different pollutants released from different sources. Typical floating materials are oils and greases released from petro-chemical and automobile plants. The tanning processes and paper and pulp manufacturing units discharge colouring wastes into fresh water. These materials make water unsightly, block sunlight, interfere re-aeration process, hence affect the physical properties of the receiving waters. The industrial effluents may contain suspended matters. Mineral tailing and mining spoil are the typical examples of suspended matters. These matters may be organic or inorganic. The former have the same effect on the physical properties of the receiving waters as the floating wastes do have. The organic suspended matters decompose using the dissolved oxygen content and consequently reduce the oxygen quantity. The decomposition process produces noxious gasses and odours.
Chemical substances present in the industrial wastes cause physical and chemical pollution of the water courses. Acids and alkalis discharged from different industrial units disturb the physical composition of water by raising the acidity or alkalinity balance. Soluble salts of heavy metals such as lead, mercury, cadmium, zinc, copper, nickel, arsenic released in sufficient quantity are highly toxic and hazardous.

Industry, as evident, is central to our economic development. Many essential human needs are met only through goods and services provided by industries. However, industries extract raw materials from nature and discharge products from their front doors and ‘pollution’ from their back doors to the environment. Therefore attention needs necessarily to be focused not only on the increase in the quantum of production but also on the environmental deterioration, as a consequence of industrialization.

**History of industrialisation in Orissa and its impact**

Any contemporary discourse on development in Orissa does give an impression that Orissa is really backward in terms of industrialization, whereas the actual scenario may not necessarily be so. Orissa has been there in the industrial and mining map of the country ever since its inception of mining and industry in India. In Orissa, industrialization started shortly after independence. The oldest in the state were coal mines at Talcher and Ib Valley and Paper Mills at Choudwar and Brajarajnagar. Orissa appeared in the industrial map of the country after setting up of an integrated steel plant at Rourkela during second five years plan. Since the state is rich in mineral resources like bauxite, iron ore, lime stone, dolomite, chromite etc. more of mineral based industries came up. The history of industrialization in Orissa indicates that certain development processes initiated by the Government have accelerated industrialization in the State. For example, the construction of Hirakud Dam, the largest Dam in the country provided power at cheaper rate. This facilitated setting of an Aluminum Smelter at Hirakud, IDCOL Cement at Bargarh, Rerolling Mill and Hirakud industrial works. The Rice Production in Hirakud command area increased significantly facilitating phenomenal growth of rice mills in the area. Mainly all the industries are established according to the raw materials and the mineral sources available in the area. There are twelve industrial zones in the state where 2754 industries are functioning.

Besides these 12 industrial zones in Orissa, another industry *i.e.* Vedanta Alumina Limited, a subsidiary of M/S Sterlite Industries India Limited (SIIL) plans to exploit the Niyamgiri bauxite reserve located on top of Niyamgiri Hill in Kalahandi District of Orissa for commercial exploitation of bauxite. This company is going to mine bauxite deposit from the Niyamgiri hills jointly with Orissa Mining Corporation Limited (OMC) as per the lease agreement signed between Vedanta Alumina Ltd. (VAL) and Orissa Mining Corporation (OMC) in October 2004.

Environmentalists argue that bauxite has great water retaining capacity and its mining would lead to the drying up of a perennial stream. Mining also disrupts the water level. It leads to heavy pressure on fertile agriculture land. If all the mountains presently leased to the mining companies, they will start mining operation. Orissa will face an environmental catastrophe. Because industrial activity is responsible for CO$_2$ emission.

Further solid waste from industrial activities is one of the major environmental concern. The problem becomes more prominent if it is designated as hazardous waste. It has been observed that mineral based industries generate significant quantity of solid waste. The major solid wastes are fly ash from thermal power plants, red mud from alumina refinery, slag from iron steel and ferroalloys plant, char from sponge iron plants. Some of the wastes are designated as hazardous because of their composition and hazard potential and they cause serious damage on human health and agriculture in Orissa. Central Pollution Control Board has identified 17 categories of industries as highly polluting type because of their high pollution potential and all polluted industries are also located at different zones of Orissa.

According to latest report on comprehensive Assessment of Industrial Clusters brought out by CPCB, pollution level in IB valley and Jharsuguda was also found to be in critical level like Angul - Talcher. Here it is worthwhile to mention that Angul - Talcher regions of Orissa have been ranked seventh most critically
polluted industries of India.

The Orissa State Pollution Control Board (OSPCB) has opined that increasing amount of land is being converted into ash ponds and solid waste disposal facilities and in the process the agricultural land is being converted into unproductive barren land in Angul –Talcher area. The OSPCB, while unveiling pollution control plans for the Angul-Talcher region has noted that conversion of agricultural land into a barren one is a major issue.

The trend of land degradation was pointed out by Central Mining Environment under India School of Mines University, Dhanbad in its regional environment management plan for Angul-Talcher, Meramunduli area last year.

Now the pollution watch dog unveiled the action plan to check pollution and land degradation within the next four to five years.

Though the State has large potential for industrialization, so far the level has remained rather low. Talcher–Angul and Rourkela areas contribute maximum pollution load both in terms of air and water pollution. However in these two areas, the ambient air quality mostly had remained within the norms. The river water quality at the downstream of these two areas has shown contamination apparently due to organic loads from human activities like Urban Local Bodies (ULBs) and Industrial townships. In other areas like Paradeep, Rayagada, Chandikhol and Khurda the environmental problems are mostly localized which can be mitigated with more stringent pollution control measures. Here it is pertinent to mention that Orissa High Court has recently ordered that polluting stone crushing units which are operating without complying with sitting criteria and without approval of State Pollution Control Board, should stop functioning in the State. A

Table 1: Major Industrial Zones in Orissa

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Zone</th>
<th>Type of Industries</th>
</tr>
</thead>
<tbody>
<tr>
<td>02.</td>
<td>Ib Valley and Jharsuguda</td>
<td>Thermal Power, Sponge Iron, Refractories and Coal Mines (Aluminium, Coal Washeries)</td>
</tr>
<tr>
<td>03.</td>
<td>Hirakud</td>
<td>Aluminium, Rolling Mill</td>
</tr>
<tr>
<td>04.</td>
<td>Talcher –Angul</td>
<td>Thermal Power, Aluminium, Coal Washeries, Ferro Alloys, Coal Mines and Fertilizer</td>
</tr>
<tr>
<td>06.</td>
<td>Balasore</td>
<td>Pulp and Paper, Ferro Alloys, Rubber Industries</td>
</tr>
<tr>
<td>07.</td>
<td>Chandikhol</td>
<td>Stone Crusher, Coke Oven</td>
</tr>
<tr>
<td>08.</td>
<td>Duburi</td>
<td>Integrated Steel, Ferro Alloys, Mineral Processing</td>
</tr>
<tr>
<td>09.</td>
<td>Paradeep</td>
<td>Fertilizer, Sea Food Processing, Petroleum Coke</td>
</tr>
<tr>
<td>10.</td>
<td>Khurda- Tapang</td>
<td>Stone Crusher</td>
</tr>
<tr>
<td>11.</td>
<td>Joda-Barbil</td>
<td>Pig Iron, Spon iron, Ferro Alloys, Iron Ore Crusher, Mineral processing</td>
</tr>
<tr>
<td>12.</td>
<td>Rayagada</td>
<td>Pulp and Paper, Ferro Alloys</td>
</tr>
</tbody>
</table>

Source: Orissa Pollution Control Board

division bench comprising High Court Chief Justice V.Gopala Gowda and Justice Indrajit Mohanty directed the district administration and police authorities to assist the SPCB in effecting closure of all such non-compliant stone crushing units immediately.

**Industrialisation and sustainable development**

Towards the end of last century, the linkage between development and environment became a much discussed topic. Understanding this, the World Commission on Environment and Development (WCED) established by a resolution of UN General Assembly and chaired by Mrs. Gro Harlem Brundtland, the Prime Minister of Norway in its Report called for the adoption of a global strategy of sustainable development. The report also defined sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

The major premise of sustainable development according to Subrat Roy Choudhury is two dimensional – First, all human being have the fundamental right to an environment adequate for their health and wellbeing.
Second, States shall conserve and use environment and natural resources for the benefit of present and future generation.

The World Development Report 1999/2000 entering 21st century defines “Sustainable Development as : Any sustainable development agenda must be concerned with intergenerational equity – that future generations have the same capability to develop as the present generation. A development path is sustainable only if it ensures that the stock of overall capital assets remains constant or increases overtime.

As industrialization progressed the human bond with Nature weakened and there was far less concern as to who controlled the natural resources. The earlier community ownership and control was slowly replaced by corporate control. Those who were part of the industrial society influenced policies, general people become inconsequential in economic decisions. In India their role was discussed only when the “business of poverty” was on the agenda.

India’s population is still rising at the rate of 1.6% per year and the economy is growing at over eight percent per year. As the consumption pattern becomes more sophisticated the demand on resources will increase and the footprint will increase proportionally. This expansion is possible only so long as others do not compete for those resources. Analyses of the vectors of the natural resource systems like land, biological diversity, forest, water and atmosphere show steady decline in resource base. Experts have estimated that if oil, gas and coal reserves are exhausted, the planet cannot support more than 750 million people i.e. the population of the earth in pre-industrial 1750 AD. Therefore, the footprint must now contract or the people of the subcontinent must expropriate resources from elsewhere. That expropriation is not only unethical, it is inhuman and contrary to natural justice.

The environmental problems of poor countries like India are becoming acute and they deserve immediate attention in terms of planning and investment programmes. Since the depletion of resources is faster than their regeneration in these countries, it is absolutely essential to design/adopt technologies that are appropriate to both sound environment and sustained development.

In the Doon Valley Case, (The case of Doon Valley “India’s Environment Crises and Responses, 24” 1985) the Supreme Court reconciled the conflict between development and conservation and reaffirmed that development is not antithetical to environment and conservation. Both can co-exist with interplay of mutually supportive parameters, which will determine the development of public policy and law of India.

Sustainable Development is a balancing concept between ecology and development. Some of the salient features of sustainable development are intergenerational equity, use and conservation of natural resources, environmental protection, the precautionary principle, obligation to assist and cooperate eradication of poverty and financial assistance to the developing countries. The precautionary and polluter pays principles are essential features of sustainable Development as stated in Vellore Citizens Welfare Forum V Union of India and others. (AIR 1996 S.C 2715 pp. 2720-2721).

Environment and industrial policy

Government is conscious about the fact that the presence of pollutants, discharged through industrial emission etc. beyond certain limits disturbs the ecological balance and adversely affects public health as also the vegetation, property and monument. With a view to avoiding industrial pollution, a number of measures have been taken. These can be broadly divided into two heads, namely dispersal of industry and control of pollution.

Para 30 of the industrial policy statement of July 1980 affirms Governments commitment to the preservation of ecological balance and improving living conditions in the urban centres of the country. With this end in view, the Government is pursuing the policy of disposal of industry and regulation of further growth in metropolitan and large towns. Against this policy perspective, certain guidelines have been issued regarding location of industries. The salient features of these guidelines are as follows:

1. No more licenses should be issued to new industrial units within the limits of large metropolitan cities
having a population more than one million and urban areas having a population of more than five lakhs.

- The State Government and the Financial Institutions would be advised to deny support to new industries in these areas except to those which do not require any industrial license.

- The Government of India would also consider and provide assistance to existing large industries which want to shift from congested metropolitan cities to approved location in backward areas.

In view of the above guidelines the setting up of new industrial undertakings or substantial expansion of existing undertakings within the prohibited locations is not being permitted. Exceptions are made only in special circumstances to enable utilization of already installed capacities, to provide for natural growth and to encourage product for export.

As a part of locational policy, the Government have identified no industry district and backward areas where positive incentives would be given. This has been done with a view to discouraging setting up of industries in metropolitan areas and big cities and also to dispose industries to less developed areas. For setting up industries in notified backward areas, incentives like investment subsidy, transport subsidy and concessional finance are provided.

Activities which have a direct bearing upon and will contribute to improved environment and reduce the deleterious effects on pollution of air, water would also be made eligible for special assistance on appropriate terms. The Government will examine the present schemes for soft loan with a view to including it in activities related to energy conservation, exploiting of non-traditional sources of energy like solar energy and control of water and air pollution and also such other specific industrial activities as are in urgent need of modernization and up-gradation of technology. This will be a continuing exercise and the list of industries eligible for soft loan scheme will be reviewed from time to time.

Judicial interpretation

In a developing country like ours, with uneducated masses, conditions of abject poverty where the awareness of socio economic and ecological problems is lacking, the judiciary has to play an active role to protect the people’s right against the anti people order by infusing confidence in people as a whole for whom it exists for as rightly put by justice Lodha “Judiciary exists for the people and not vice-versa” (Krishna Devi Vrs Vishnu Mitra. (AIR, 1982; Raj, 281) Judiciary therefore cannot sit in silence and helplessly but must come forward actively to make good the deficiencies of law and provide relief wherever and whenever required. Besides the traditional role of interpretation and application of law, the judiciary can perform the educative function of infusing an awareness of the massive problems of environmental degradation through a series of illuminating judgements and through judicial activities it can evolve new jurisprudential techniques of ‘Environmental Jurisprudence’.

As pointed out by Rescoe Pound, a noted scholar of jurisprudence “Law must be stable and yet it cannot stand still. The “Central Problem of Law” consequently is “to reconcile the conflicting needs of the stability and change” Environmental Consequences of industrialization and economic development and the pollution of air, water and soil on which our life depends, is the high cost which our man is paying for economic progress. While speaking before the UN conference on Human Environment at Stockhalm, the Late Prime Minister Smt. Indira Gandhi had said that for developed countries, development might be the cause of destruction of environment but for a country like India, it was the primary means for improving the standard of living to make available food - products, water, cleanliness, shelter to bring about greenery in deserts and to make hills and mountains worthliving.

Technological progress has brought enormous number of chemicals into everyday life. Though they have brought immense benefit to the society-increased food production, improved health care, eradication of deadly diseases and bestowed longer life expectancy and a better standard of living, but they have also bought new danger largely through the waste generated in their manufacture. In K. M. Chinnappa Vs. Union of India (AIR, 2003; SC, 724) it was held that “Enjoyment of life and its attainment including their ‘right to
life’ with human dignity encompasses within its ambit, the protection and preservation of environment ecological balance free from pollution of air, water and sanitation without which life cannot be enjoyed. Any contracts or actions would cause environment pollution”.

The Judicial approach to deal with the problems of environmental pollution was influenced to a very great extent by the Common Law Doctrine of strict liability as laid down in Rylands V. Fletcher case. However these appear to a marked difference in the judicial approach. While under the rule of strict liability, a person was held liable as soon as a thing escapes from the premises of the person and causes injury to others. In pollution problems, the courts do not stop these. It goes a step further and enquires into the possibility of any alternative solution of the problem. If an alternative solution is feasible, the court has preferred to maintain the status quo, possibly influenced by citizens right guaranteed under the constitution and directs the parties concerned to adopt the alternative course or scientific approach to avoid the situation. This does not mean that the court is reluctant towards the persons causing pollution because if they continue to do such act then court grants injunction against the parties concerned. The court is more vigorous in its approach while dealing corporate or local bodies which failed to perform their duties towards the society and thereby permitting the pollution to continue. Here the courts have reminded to such bodies towards their duties to society. The courts also caution to the state towards the public duty in preventing and regulating the environmental pollution.

The Supreme Court Judgement on the Ratlam Municipality V Virdhi Chand (AIR, 1980; SC, 1622) is a refreshing example of how an enlightened judiciary even within the limitations of law, can enlarge and enrich the concept of citizens rights in a democracy. Here the judiciary asserts that when an administration fails to discharge its due responsibilities, an aroused citizen can help in bringing the law into action to set things right.

It is heartening to note that during the last few years there have been many cases before the courts, where aggrieved parties have successfully sought redressal of grievances based on environmental hazards and nuisances. The Ratlam Municipality case went a great extent in reaffirming the role of the judiciary in putting flesh to the statutory provisions.

In Rural Litigation and Entitlement Kendra Dehradun V. State of U. P. (AIR, 1985; SC, 652) the Supreme Court ordered the closure of some lime stone quarries in the Himalayan ranges of Mussorie, on the ground that their operation results in degradation of environment, upsetting the ecological balance. The court thus impliedly recognized right to a wholesome environment as implicit in Article 21 of the Constitution.

Coming to the Water (Prevention and Control of Pollution) Act 1974, the new vistas were introduced in Kolleru Paper Mills Case. (SB writ petition No 1303, 2088 and 2089 of 1981 decided by High Court of Andhra Pradesh).

In the said case, the villagers of Kolleru filed a petition for a direction to the Paper Mill to stop letting out the factory effluent into the Pada Padu irrigation – cum – drainage channel on ground that it endangered the human, cattle lives and agriculture land. In the instant case, the effluents were sent for analysis to the Assistant Director of Medical and Health Services of Andhra Pradesh according to whom the effluent which was let out into the drain was not harmful to the biological species at the point of dilution contrary to this, was the analysis report of the Andhra Pradesh, State Board for Prevention and Control of Water Pollution. According to the Board’s report the effluents did not meet the standards prescribed for discharge into natural water course and therefore was in violation of the consent condition. The A.P. High Court held that report of the Board will prevail over the report of Andhra Pradesh Health Authorities. In this case the analysis Report of the A.P. State Board for Prevention and Control of Water Pollution has to be given more weight, as it is the State Board that is competent under statute to take action with regard to prevention and control of pollution. In the instant case, the High Court rejecting the contention of respondent mill that, if the letting out of the effluents is to be stopped, it will seriously affect the respondent mill said as against the interest of the factory, the public interest is paramount and if the effluents are allowed to be discharged into
the pada-padu irrigation-cum-drainage channel, which is used for drinking purpose by human beings and cattle and for filling fish tanks, the life and health of the villagers and cattle and the fish in the tanks will be endangered.


However more progressive interpretation was taken by the High Court of Rajasthan. In the case of M/S Bharat Alumns and Chemical Ltd. Alwar Vs. Rajasthan State Board for prevention and control of Water Pollution, Jaipur (SB Criminal Misc. Application No. 358 of 1982 decided by High Court of Rajasthan at Jaipur Bench on 16.04.1984) Mr. N.M Kasliwal, speaking for the court, held “For moving an application under Section 33 of the Water Act, 1974, the apprehension of the Board that the Water in any stream or wells is likely to be polluted by reason of disposal of any matter therein is enough for restraining the person, who is likely to cause such pollution”.

The Judiciary has also shown its concern to stop the illegal felling of trees in forests. In T.N. Godavarman Thirumulpad Vs.Union of India (2000 SCC 413) (properly known as Forest Conservation case) the Supreme Court issued interim directions that all the on-going activities within any forest in any state throughout the country, without the permission of the Central Government must be stopped forthwith. Running the saw mills including veneer or plywood mills within the forests was also stopped. Felling of trees in the State of Arunachal Pradesh was totally banned in certain forests, whereas in other forests, it was suspended in accordance with the working plan of the State Government. Movement of cut trees and timber from any of the seven North-Eastern States to any other State was completely banned. The Court issued directions to stop felling of trees in other States such as the State of Jammu and Kashmir and Tamil Nadu, with a view to protect and preserve the forests. The Supreme Court modified some of these directions subsequently. The Court called for the comprehensive statement of all the states about their past activity and their future programme to tackle the problem of degradation and degeneration of forests. The Court also pointed out that industrial requirements had to be subordinated to the maintenance of environment and ecology as well as bonafide local needs. The Court has also stressed on the scientific management of the forests. In this particular case, also the ‘public interest doctrine’ was enumerated which recognized the need of the present generation and also suggested that certain resources are invested for future generations.

In Vijay Singh Puniya Vs. State of Rajasthan” (AIR, 2004 Raj) the High Court of Rajasthan observed that any person who disturbs the ecological balance or degrades, pollutes and tinkers with the gifts of nature such as air, water, river, seas and other elements of the nature, not only violates the fundamental rights guaranteed under Article 21 of the Constitution but also breaches the fundamental duty to protect the environment under Article 51A(g).

In Essar Oil Ltd. Vs. Halar Utkarsh Samiti and Others (AIR, 2008; AP, 220) the Supreme Court aptly observed Stockholm Declaration as “Magna Carta of our environment”. The Court noted that this, therefore is the aim, namely, to balance economic and social needs on the one hand with environment considerations on the other. But in a sense, all development is an environmental threat. Indeed, the very existence of humanity and rapid increase in the population together with consequential demands to sustain the population has resulted in the concreting of open lands, cutting down of forests, the filling up of lakes and pollution of water recourses and the very air which we breathe. However, there need not necessarily be a deadlock between development on the one hand and the environment on the other. The objective of all laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other.

In some cases, it appears that the judiciary is not in the habit of giving serious attention and takes these offences lightly and not providing quick remedy at appropriate time. (Bhopal Gas Tragedy Case)

The judiciary should be more vigilant to know what is happening around them. Sometimes, lack of proper
appreciation of environmental information may often lead to decisions going against the interest of the
general public. Consequently, priority is given to developmental activities aimed at short term benefits over
conservation oriented actions with a long term perspective of sustainable benefits. The establishment of
POSCO and Vedanta is the glaring example of it. Exactly this has happened in the society for protection of
Silent Valley V Union of India and others. (OP Nos. 2949 and 3025 of 19790) In the instant case, petitions
were filed seeking a writ forbidding the State of Kerala from proceeding to construct a hydro electric
project at silent valley. Because their venture adversely affected the silent valley and its environment.

Following a long course of pro-active interpretation of Constitutional and legislative provisions by the
judiciary and vigorous efforts of some “green” citizens, the Indian environmental scenario has undergone a
positive change. The Indian environmental jurisprudence was in a deep slumber. But today, the environmental
consciousness exhibited by the courts, combined with subsequent legislative efforts in the later years have
seen the emergence of the right to environment as a fundamental right.

REFERENCES


and Issues”, Edited by V.S Mahajan 1993.

Mathur Mahesh. 1996. “Environment and Environmental Pollution” Legal Control of Environmental Pollution,


p. 171.


The Hindu, Jan, 5’ 2010.

The Hindu Aug ,26’ 2010.