

## **UNIT-V**

### **ENVIRONMENTAL ETHICS, ENVIRONMENTAL IMPACT**

#### **ASSESSMENT AND ROLE OF NGOs**

#### **5.1 ENVIRONMENTAL ETHICS**

Excessive rise in population, rampant industrialization and rapid growth in industrial sectors has led to a great deterioration of Indian environment. However, Environmental management is now accepted as a major guiding factor for National Development in India. Over the last few decades there has been a progressive & strengthening of official involvement in environmental management with increased scientific technical, administrative and legislative back up at the central and state levels.

#### **ENVIRONMENTAL LAWS**

Following is a list of major Environmental Acts and Rules applicable in India.

- The Water (Prevention & Control of Pollution) Act 1974 (as amended upto 1998).
- The Water (Prevention & control of Pollution) cess Act, 1977 (as amended by Amendment Act 1991).
- The Air (Prevention & Control of Pollution) Act 1981 as amended by Amendment Act 1986
- Environment (Protection) Act 1986.
- Hazardous Waste (Management & Handling) Rules 1989.
- The Public Liability Insurance Act 1991.
- Environment Protection Amendment Rule 1983.
- Manufacture, Storage and Import of Hazardous Chemicals (Amendment) Rules 1984.
- The Factories Act 1984.
- The Forest Conservation Act 1980.
- The Notification on Environment Impact Assessment 1994.

Besides this there are a large number of RULES and AMENDEMENTS and a plethora of STATE LAWS. Only Major acts are briefly discussed here.

#### **5.1.1 THE ENVIRONMENT (PROTECTION) ACT (EPA)**

An Act to provide for the protection and improvement of environment and for matters connected there with:

Whereas the decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment

The Environment (Protection) Act, 1986 not only has important constitutional implications but also an international background.

This Act may be called the Environment (Protection) Act, 1986. It extends to the whole of India.

### **Powers and Functions of the Boards**

- (i) Co-ordination of actions by the State Governments, officers and other authorities--
  - (a) Under this Act, or the rules made there under, or
  - (b) Under any other law for the time being in force which is relatable to the objects of this Act;
- (ii) Planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;
- (iii) Laying down standards for the quality of environment in its various aspects;
- (iv) Laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:  
Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;
- (v) Restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;
- (vi) Laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;
- (vii) Laying down procedures and safeguards for the handling of hazardous substances;
- (viii) Examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;
- (ix) Carrying out and sponsoring investigations and research relating to problems of environmental pollution;
- (x) Inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;
- (xi) Establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;
- (xii) collection and dissemination of information in respect of matters relating to environmental pollution;
- (xiii) Preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;
- (xiv) Such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

### **Appointment of officers and their Powers and Functions**

Without prejudice to the provisions , the Central Government may appoint officers with such designation as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

### **Power to give directions**

Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.<sup>3</sup>

Explanation--For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct--

- (a) the closure, prohibition or regulation of any industry, operation or process; or
- (b) stoppage or regulation of the supply of electricity or water or any other service.

## **RULES TO REGULATE ENVIRONMENTAL POLLUTION**

- (1) The Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred
- (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;
  - (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;
  - (d) the prohibition and restrictions on the handling of hazardous substances in different areas;
  - (e) the prohibition and restriction on the location of industries and the carrying on process and operations in different areas;
  - (f) the procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents.

### **Prevention, Control and Abatement of Environmental Pollution**

Persons carrying on industry operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards

Persons handling hazardous substances to comply with procedural safeguards

Furnishing of information to authorities and agencies in certain cases.

### **Environmental Laboratories**

- (1) The Central Government<sup>15</sup> may, by notification in the Official Gazette,--
  - (a) establish one or more environmental laboratories;
  - (b) recognize one or more laboratories or institutes as environmental laboratories to carry out the functions entrusted to an environmental laboratory under this Act.
- (2) The Central Government may, by notification in the Official Gazette, make rules specifying--
  - (a) the functions of the environmental laboratory;
  - (b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and the fees payable for such report;
  - (c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

### **Penalty for Contravention of the Provisions of the Act and the Rules, orders and directions**

- (1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued there under, 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 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

### **5.1.2 THE AIR (PREVENTION & CONTROL OF POLLUTION) ACT**

It is also a comprehensive legislation with more than fifty sections. It makes provisions, inter alia, for Central and State Boards, power to declare pollution control areas, restrictions on certain industrial units, authority of the Boards to limit emission of air pollutants, power of entry, inspection, taking samples and analysis, penalties, offences by companies and Government and cognizance of offences etc.

The Act specifically empowers State Government to designate air pollution areas and to prescribe the type of fuel to be used in these designated areas. According to this Act, no person can operate certain types of industries including the asbestos, cement, fertilizer and petroleum industries without consent of the State Board. The Board can predicate its consent upon the fulfillment of certain conditions. The Air Act apparently adopts an industry wide “best available technology” requirement. As in the Water Act, courts may hear complaints under the Act only at the instigation of, or with the sanction of, the State Board.

The Government passed this Act in 1981 to clean up our air by controlling pollution. It states that sources of air pollution such as 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 prescribed level. To ensure this, Pollution Control Boards (PCBs) have been set up by Government to measure pollution levels in the atmosphere and at certain sources by testing the air. This is measured in parts per million or in milligrams or micrograms per cubic meter. The particulate matter and gases that are released by industry and by cars, buses and two wheelers is measured by using air-sampling equipment. However, the most important aspect is for people themselves to appreciate the dangers of air pollution and reduce their own potential as polluters by seeing that their own vehicles or the industry they work in reduces levels of emissions. This Act is created to take appropriate steps for the preservation of the natural resources of the Earth which among other things includes the preservation of high quality air and ensures controlling the level of air pollution.

The main objectives of the Act are as follows:

- (a) To provide for the prevention, control and abatement of air pollution.
- (b) To provide for the establishment of central and State Boards with a view to implement the Act.
- (C) To confer on the Boards the powers to implement the provisions of the Act and assign to the Boards functions relating to pollution

Air pollution is more acute in heavily industrialized and urbanized areas, which are also densely populated. The presence of pollution beyond certain Limits due to various pollutants discharged through industrial emission is monitored by the PCBs set up in every state.

#### **Powers and Functions of the Boards**

**Central Pollution Board:** The main function of the Central Board is to implement legislation created to improve the quality of air and to prevent and control air pollution in the country. The

Board advises the Central Government on matters concerning the improvement of air quality and also coordinates activities, provides technical assistance and guidance to State Boards and lays down standards for the quality of air. It collects and disseminates information in respect of matters relating to air pollution and performs functions as prescribed in the Act.

**State Pollution Control Boards:** The State Boards have the power to advise the State Government on any matter concerning the prevention and control of air pollution. They have the right to inspect at all reasonable times any control equipment, industrial plant, or manufacturing process and give orders to take the necessary steps to control pollution.

They are expected to inspect air pollution control areas at intervals or whenever necessary. They are empowered to provide standards for emissions to be laid down for different industrial plants with regard to quantity and composition of emission of air pollutants into the atmosphere. A State Board may establish or recognize a laboratory to perform this function. The State Governments have been given powers to declare air pollution control areas after consulting with the State Board and also give instructions to ensure standards of emission from automobiles and restriction on use of certain industrial plants.

**Penalties:** The persons managing industry are to be penalized if they produce emissions of air pollutants in excess of the standards laid down by the State Board. The Board also makes applications to the court for restraining persons causing air pollution. Whoever contravenes any of the provision of the Act or any order or direction issued is punishable with imprisonment for a term which may extend to three months or with a fine of Rs 10,000 or with both, and in case of continuing offence with an additional fine which may extend to Rs 5,000 for every day during which such contravention continues after conviction for the first contravention.

### **5.1.3 THE WATER (PREVENTION & CONTROL OF POLLUTION) ACT**

The government formulated this act in 1974 to prevent the pollution of water by industrial, agricultural and household wastewater that can contaminate our water sources.

Wastewaters with high levels of pollutants that enter wetlands, rivers, lakes, wells as well as the sea are serious health hazards. Controlling the point sources by monitoring the levels of different pollutants is one way to prevent pollution, by punishing the polluter. Individuals can also do several things to reduce water pollution such as using biodegradable chemicals for household use, reducing the use of pesticides in gardens, and identifying polluting sources at work places and in industrial units where oil and other petroleum products and heavy metals are used. Excessive organic matter, sediments and infecting organism from hospital wastes can also pollute our water. Citizens need to develop a watchdog force to inform authorities to appropriate actions against different types of water pollution. However, preventing pollution is better than trying to cure the problems it has created, or punishing offenders.

The main objectives of the Water Act are to provide for prevention, control and abatement of water pollution and the maintenance or restoration of the wholesomeness of water. It is designed to assess pollution levels and punish polluters. The Central Government and State Government have set up PCBs to monitor water pollution.

The Water Act 1974 with certain amendments in 1978 is an extensive legislation with more than sixty sections for the prevention and control of water pollution. Among other things, the Act provides for constitution of central and State Boards for preventing water pollution, power to take water samples and their analysis, discharge of sewage or trade effluents, appeals, revision, minimum and maximum penalties, publication of names of offenders, offences by companies and Government departments, cognizance of offences, water laboratories, analysis etc. Prevention and control of water pollution is achieved through a permit or 'consent administration' procedure. Discharge of effluents is permitted by obtaining the consent of the State Water Board, subject to any condition they specify. Any person who fails to comply with a directive of the State cannot, however, entertain a suit under this Act unless the suit is brought by, or with the sanction of the State Board.

## **WATER POLLUTION CESS ACT 1977**

According to this Act, anyone consuming water has to pay certain amount of cess depending on

1. Whether the industry is using water for industrial cooling, spraying in mine pits or boilers feed,
2. For domestic purposes,
3. in processing, whereby water gets polluted and pollutants are easily biodegradable, and
4. in processing whereby water gets polluted and the pollutants are not easily bio-degradable and are toxic. Those industries that had installed a suitable treatment plant for the treatment of industrial effluents can get a rebate of 70 per cent on the cess payable.

### **5.1.4 WILD LIFE PROTECTION ACT**

The Act is adopted by all states in India except J&K, which has its own Act

The act is aimed to protect and preserve wild life. Wild life refers to all animals and plants that are not domesticated. India has rich wild life heritage; it has 350 species of mammals, 1200 species of birds and about 20,000 known species of insects. Some of them are listed as 'endangered species' in the Wild life (Protection) Act. The Act envisages national parks and wild life sanctuaries as protected areas to conserve wild life. Wild life populations are regularly monitored and management strategies formulated to protect them.

The Act covers the rights and non-rights of forest dwellers too,- it provides restricted grazing in sanctuaries but prohibits in national parks. It also prohibits the collection of non-timber forest produce which might not harm the system. The rights of forest dwellers recognized by the Forest policy of 1988 are taken away by the Amended Wild life Act of 1991.

The act, a landmark in the history of wildlife legislation in our country by which wildlife was transferred from State list to concurrent list in 1976, thus giving power to the Central Government to enact the legislation. In India, nearly 134 animal species have been regarded as threatened. A National Wildlife action plan has been prepared whose objective is to establish a network of scientifically managed areas such as national parks, sanctuaries and biosphere reserves, to cover representative and viable samples of all significant bio-geographic subdivisions within the country.

The major activities and provisions in the act can be summed up as follows:

1. It defines the wildlife related terminology.
2. It provides for the appointment of wildlife advisory board, wildlife warden, their powers, duties etc