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**ENVIRONMENTAL PROTECTION UNDER CONSTITUTIONAL
FRAMEWORK OF INDIA**

INTRODUCTION

It's clear from the construction of the Constitution that the possibility of environment was never there in the psyches of the establishing fathers of the Indian Constitution. Thusly, the articulation 'environment' doesn't discover any notice in the Constitution. Be that as it may, there are numerous things in the authoritative records which empower the Center and the State to make laws in the field of environment like general wellbeing, sanitation, farming and so on

Additionally, it is intriguing to take note of that all the significant advances taken by the State towards the protection of environment were taken after the Stockholm Conference, 1972. Before the meeting, it didn't hit the aware of the Indian government that they have to proactively pursue shielding the environment. After the Stockholm Conference, the National Council for Environmental Policy and Planning was set up in 1972 inside the Department of Science and Technology to set up an administrative body to take care of the environment related issues. This Council later advanced into an undeniable Ministry of Environment and Forests (MoEF).

MoEF was set up in 1985, which today is the peak managerial body in the nation for regulating and ensuring environmental protection and sets out the lawful and administrative structure for the equivalent. Since the 1970s, various environment enactments have been set up. The MoEF and the pollution control boards ("CPCB", i.e., Central Pollution Control Board and "SPCBs",

i.e., State Pollution Control Boards) together structure the administrative and authoritative core of the area.

The Constitution 42nd Amendment Act, 1976 which moved forest, wildlife and population control from the State to the Concurrent List empowering both the state and the centre to make laws relating to these zones is one of the models out of the few activities taken by the Indian Government towards environment protection.

There is no uncertainty in saying that it is the obligation of the State to secure the environment. Nonetheless, it took a long effort for the Apex Court to articulate expressly that the Right to life under Article 21 of the Constitution contains right to have a healthy environment

PROACTIVE ESTABLISHMENT OF THE RIGHT TO A HEALTHY ENVIRONMENT AS PART OF THE FUNDAMENTAL RIGHT

The Indian apex court has assumed a functioning part in supporting the accomplishment of the above constitutional mandate given. Since the decision of *Maneka Gandhi v Union*¹ of India the Indian jurisdiction kept on pushing ahead in its public law. To accomplish the goals of Articles 48A and 51A(g) a unique disposition on interpretation of the constitution was received by the Indian courts. The proactive moves of the courts have empowered the Indian law to expand the ambit of their fundamental right. For example, the liberal understanding on right to life under Article 21 by the Supreme Court in Maneka Gandhi permits the Indian apex court judges to augment the extent of fundamental rights, and this incorporates right to a sound environment. Moreover, the vivacious stand received have permitted India to stretch out right to a solid environment, to contain, among others, right to appreciate contamination free water and air, protection and conservation of environment, disinfection, ecological balance, environment free from contamination of air and water and furthermore sound and healthy environment at work place.

The pronouncement of Maneka Gandhi is the new boondocks in Indian public law on right to life. The liberal disposition applied by the court in Maneka Gandhi structures the reason for the augmentation on the ambit of fundamental rights to includes right to a healthy environment. In

the development of the expression "life" in their legal proclamation, the Supreme Court as often as possible referred to the perception of Field, J. in *Munn v Illinois*² which expressed that 'life' implied something more than simple presence and the hindrance against its hardship stretch out to all appendages and resources by which life could be delighted in. With the proactive methodology applied, the Indian judiciary can make a positive personal conduct standard to infer the right to a healthy environment as a feature of fundamental life. The positive move has welcomed reformist advancement on a healthy environment in India. This was outlined in numeral choices of the Indian Supreme Court.

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1. *Maneka Gandhi v Union of India* AIR 1978 SC 597
 2. *Munn v Illinois* 94 U.S. 113 (1877)

In *Shantisar Builders v Narayanan Khimalal Totame*³, the Supreme Court said that 'life' under article 21 comprises of the rights to food, clothing, good environment and sensible accommodation. Meanwhile, in *Board of Trustees, Port of Bombay v Dilikumar*⁴ the Supreme Court expressed that the term 'life' has a lot more extensive significance than simply a creature presence. Away from of the right to a healthy environment inside the ambit of Article 21 was made in *Virendra Gaur and Ors v State of Haryana*⁵. In this case, the court held that right to life under Article 21 grasp satisfaction throughout everyday life. Its fulfillment incorporates right to existence with human dignity which envelops the security and safeguarding of environment, ecological balance, free from contamination of air and water and sanitation without which life can't be delighted in. The Supreme Court for the situation too had concluded that right to the environment incorporates right to hygienic atmosphere and ecological balance. On the issue of biological balance, the Supreme Court had included in its decision the significance of economical turn of events. In the instance case, it was held that sustainable development is essential for the statute to ensure against any activity that caused environmental harm.

SOME OF THE IMPORTANT LEGISLATIONS FOR ENVIRONMENT PROTECTION

The National Green Tribunal Act, 2010

The National Green Tribunal Act, 2010 (No. 19 of 2010) (NGT Act) has been authorized with the targets to accommodate foundation of a National Green Tribunal (NGT) for the compelling and quick removal of cases identifying with environment assurance and protection of woodlands and other common assets including requirement of any legal right identifying with environment and giving help and remuneration for harms to people and property and for issues associated therewith or coincidental thereto.

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3. Shantisar Builders v Narayanan Khimalal Totame AIR 1990 SC 630
 4. Board of Trustees, Bombay v Dilikumar AIR 1983 SC 109
 5. Virendra Gaur & Ors v State of Haryana 1995(2) Supreme Court Cases 577

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

The Air (Prevention and Control of Pollution) Act, 1981 (the "Air Act") is an act to accommodate the anticipation, control and decrease of air contamination and for the foundation of Boards at the Central and State levels with the end goal of completing the aforementioned purposes.

To counter the issues related with air contamination, surrounding air quality norms were set up under the Air Act. The Air Act tries to battle air contamination by forbidding the utilization of dirtying powers and substances, just as by controlling machines that offer ascent to air contamination. The Air Act enables the State Government, after counsel with the SPCBs, to proclaim any region or zones inside the Sate as air contamination control territory or territories. Under the Act, building up or working any mechanical plant in the contamination control zone requires assent from SPCBs. SPCBs are likewise expected to test the air in air contamination control territories, investigate contamination control hardware, and assembling measures.

The Environment Protection Act, 1986

The Environment Protection Act, 1986 (the "environment Act") accommodates the security and improvement of environment. The Environment Protection Act builds up the structure for

examining, arranging and actualizing long haul necessities of natural security and setting out an arrangement of fast and sufficient reaction to circumstances compromising the environment. It is an umbrella enactment intended to give a structure to the coordination of centre and state authorities set up under the Water Act, 1974 and the Air Act. The expression "environment" is perceived in an extremely wide term under s 2(a) of the Environment Act. It incorporates water, air and land just as the interrelationship which exists between water, air and land, and people, other living animals, plants, miniature life forms and property.

Under the Environment Act, the Central Government is enabled to take estimates important to secure and improve the nature of environment by setting guidelines for outflows and releases of contamination in the air by any individual carrying on an industry or action, controlling the area of businesses, the board of perilous squanders, and insurance of general wellbeing and government assistance. Now and again, the Central Government issues notices under the Environment Act for the security of environmentally delicate regions or issues rules for issues under the Environment Act.

If there should be an occurrence of any rebelliousness or negation of the Environment Act, or of the principles or headings under the said Act, the violator will be culpable with detainment as long as five years or with fine up to Rs 1,00,000, or with both. In the event of continuation of such infringement, an extra fine of up to Rs 5,000 for consistently during which such disappointment or repudiation proceeds after the conviction for the main such disappointment or contradiction, will be required. Further, if the infringement proceeds past a time of one year after the date of conviction, the wrongdoer will be culpable with detainment for a term which may extent to seven years.

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

The Water Prevention and Control of Pollution Act, 1974 (the "Water Act") has been enacted to accommodate the anticipation and control of water contamination and to keep up or reestablish healthiness of water in the nation. It further accommodates the foundation of Boards for the counteraction and control of water contamination so as to do the aforementioned purposes. The Water Act forbids the release of poisons into water bodies past a given norm, and sets down

punishments for resistance. At the Center, the Water Act has set up the CPCB which sets down principles for the counteraction and control of water contamination. At the State level, SPCBs work under the heading of the CPCB and the State Government.

Further, the Water (Prevention and Control of Pollution) Cess Act was enacted in 1977 to accommodate the duty and assortment of a cess on water devoured by people working and carrying on specific sorts of modern exercises. This cess is gathered so as to enlarge the assets of the Central Board and the State Boards for the anticipation and control of water contamination comprised under the Water (Prevention and Control of Pollution) Act, 1974. The Act was last amended in 2003

Hazardous Wastes Management Regulations

Hazardous waste means any waste which, by reason of any of its physical, compound, receptive, poisonous, combustible, hazardous or destructive qualities, causes risk or is probably going to make threat wellbeing or environment, regardless of whether alone or when in contact with different squanders or substances.

There are a few enactments that legitimately or by implication manage unsafe waste administration. The significant enactments are the Factories Act, 1948, the Public Liability Insurance Act, 1991, the National Environment Tribunal Act, 1995 and rules and notices under the Environmental Act. A portion of the principles managing dangerous waste administration are examined beneath:

- **Hazardous Wastes (Management, Handling and Transboundary) Rules, 2008**, drew out a guide for production, stockpiling and import of unsafe synthetic substances and for the executives of dangerous wastes.
- **Biomedical Waste (Management and Handling) Rules, 1998**, were planned along equal lines, for appropriate removal, isolation, transport, and so forth, of irresistible wastes.
- **Municipal Solid Wastes (Management and Handling) Rules, 2000**, target empowering regions to arrange metropolitan strong waste in a logical way.

- **E - Waste (Management and Handling) Rules, 2011** have been notified on May 1, 2011 and became effective from May 1, 2012, with essential target to decrease the utilization of risky substances in electrical and electronic hardware by determining edge for utilization of perilous material and to channelize the e-waste produced in the nation for earth sound reusing. The Rules apply to each maker, shopper or mass buyer, assortment focus, dismantler and recycler of e-waste engaged with the production, deal, buy and preparing of electrical and electronic gear or segments as itemized in the Rules.
- **Batteries (Management and Handling) Rules, 2001** arrangement with the best possible and compelling administration and treatment of lead corrosive batteries waste. The Act requires all producers, constructing agents, re-conditioners, shippers, sellers, barkers, mass shoppers, buyers, associated with make, preparing, deal, buy and utilization of batteries or segments thereof, to follow the arrangements of Batteries (Management and Handling) Rules, 2001.

The Wildlife Protection Act, 1972

The Wild Life (Protection) Act, 1972 was authorized with the goal of adequately securing the natural life of this nation and to control poaching, sneaking and illicit exchange untamed life and its subsidiaries. The Act was revised in January 2003 and discipline and punishment for offenses under the Act have been made more severe. The Ministry has proposed further corrections in the law by acquainting more inflexible measures with reinforce the Act. The goal is to give insurance to the recorded jeopardized greenery and biologically significant ensured regions.

The Forest Conservation Act, 1980

The Forest Conservation Act, 1980 was enacted to help preserve the nation's woods. It carefully confines and directs the de-reservation of backwoods or utilization of woodland land for non-timberland purposes without the earlier endorsement of Central Government. To this end the Act sets out the pre-essentials for the redirection of woods land for non-woodland purposes.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, perceives the privileges of woods abiding Scheduled Tribes and other conventional

timberland occupants over the backwoods zones occupied by them and gives a structure to agreeing the equivalent.

The Indian Forest Act, 1927 merges the law identifying with woods, the travel of timberland produce and the obligation leviable on timber and other backwoods produce.

The Biological Diversity Act, 2002

The Biological Diversity Act 2002 was conceived out of India's endeavor to understand the destinations cherished in the United Nations Convention on Biological Diversity (CBD), 1992 which perceives the sovereign privileges of states to utilize their own Biological Resources. The Act focuses on the preservation of natural assets and related information just as encouraging admittance to them in a manageable way. The National Biodiversity Authority in Chennai has been set up for the motivations behind actualizing the objects of the Act.

CONCLUSION

To conclude, the established arrangements and the court's capacity could be interpreted extensively and generously to incorporate right to a healthy environment as a component of key privileges of an individual. During the time spent doing so the imaginative and dynamic methodologies of the Indian court could be made as reference. Each exertion has been made to relate them to the translation of the privilege to a healthy environment as right to life. Since right to a healthy environment is essential to the healthy living of a person, it is important that the privilege must be interpreted in the greatest sufficiency. This would ensure that the most extreme assurance could be given to general society. The dynamic statute and protected system is the route forward in getting acknowledgment of Right to Healthy Environment as a feature of the fundamental right.

Environment protection is important for our social qualities and customs. In Atharvaveda, it has been said that "Man's heaven is on earth, this living world is the dearest spot of all, It has the favors of nature's bounties, live in an exquisite soul". Earth is our heaven and it is our obligation

to ensure our paradise. The constitution of India epitomizes the structure of protection and conservation of nature without which life can't be delighted in. The information on established arrangements with respect to environment protection is need of the day to bring more noteworthy public participation, environmental awareness and environmental education furthermore, sharpen individuals to safeguard nature and environment.

