

## PREVENTION AND CONTROL WATER POLLUTION IN INDIA

### A LEGAL STUDY

Dr.G.Adinarayana

Faculty, PG Department of Law

Sri Venkateswara University

TIRUPATI – 517 502, Andhra Pradesh, India

Email Id: [gujjala.adinarayana@gmail.com](mailto:gujjala.adinarayana@gmail.com)

### ABSTRACT

Access to a healthy environment is considered as the prime concern of India. Water is considered to be a very precious resource possessed by the country. Pollution of water is one of the severe issues which are looming large in the country in the current scenario. Several laws as well as policies are being framed for controlling the pollution of water by myriad ways. The legal framework for water pollution comprises the Constitution of India, legally in addition to a specific law for preventing and controlling water pollution. Some of the Indian laws which are being passed by the parliament of the country for monitoring the pollution of water in the country are discussed in the present paper.

### INTRODUCTION

Water is called as elixir of life and essential for the sustenance of life on the surface of the Earth. Owing to population explosion, industrial advancement and agricultural development, the water resources have been more prone to pollution. The central legislation in the control of water pollution in India is the Water (Prevention and Control of Pollution) Act, 1974 (the “Water Act”). The Water Act was enacted for the prevention and control of water pollution and prohibits the discharge of pollutants into the water system in excess of standards. Moreover, it also provides for setting up Central Pollution Control Board (CPCB) for the central government and State Pollution Control Boards (SPCBs) for the state governments. The Water Act is in effect the first environmental regulation in India and was enacted before the Environment (Protection) Act, 1986 was published. In 1988, the Water Act was amended to bring its provisions in line with the Environment (Protection) Act, 1986.

The Constitution of India gives the states the power for managing water and, as a rule, no water laws can be enacted at the national level. Therefore, the basic tasks of the central government are rather limited to the formulation of a comprehensive plan for water resources

management and coordination among the states. However, the Water Act was enacted under Article 252 of the Constitution as an exceptional national law on water. In 1975, the Water (Prevention and Control of Pollution) Rules, 1975 was enacted as a sub-regulation of the Water Act. The Rules set out payment, authority, budget and functions of CPCB in detail.

Another major water law is the Water (Prevention and Control of Pollution) Cess Act, 1977 (the "Water Tax Act"). The Water Tax Act governs the taxation of water consumed by industrial entities and municipalities and the collection thereof. Under the Water Tax Act, industrial entities and local governments must install water meters and pay taxes based on the amount of water used. In 1978, the Water (Prevention and Control of Pollution) Cess Rules, 1978 was enacted as a sub-regulation.

No national regulations have been enacted for the management of groundwater resources, and some states and the Union Territory have enacted their own regulations. On the other hand, in 1970, the central government enacted the "Model Bill to Regulate and Control the Development and Management of Groundwater" as a model for states and the Union Territory to enact groundwater regulations. The Model Bill was amended in 1992, 1996 and 2005. The Model Bill provides for the establishment of Ground Water Authority by the state governments and also recommends introducing registration system of a well and a permit system for ground water extraction.

Effluent standards for wastewater discharged from industrial facilities are specified in the Environmental (Protection) Rules, 1986.

## **PREVENTION AND CONTROL WATER POLLUTION LAWS**

### **Water Prevention and Control of Pollution Act, 1974**

The Water (Prevention and Control of Pollution) Act, 1974 was promulgated as a Central Legislation under Article 252 of the Constitution. The prime object of this Act is to provide for the prevention of water pollution and cater to the maintenance of the water bodies and carry out activities to promote restoration of water. With the objective of giving practical implementation to this Act, the Central Pollution Control Board and the State Pollution Control Board have been established by the central and state authorities. The Central Pollution Control Board is to promote the cleanliness of streams and wells in different areas of the state. The Central Pollution Control Board has the power to advise the central

government on various matters, which are concerned with the prevention and control of pollution of water. Under the Act mentioned above, the board has the power to encourage and conduct research and investigation with a view of promoting, the prevention of contamination of water in a significant manner.<sup>1</sup>

### **Relevance of Section 24 of this Act**

To promote the proper implementation of the Act, Section 24 of the Act imposes a duty upon a person to refrain from allowing any poisonous or noxious matter, as determined by the standards laid down by the Central Pollution Control Board, into any stream or sewer or on the land. Another duty imposed by this Act upon the person is that no person shall, knowingly enter into any stream in a manner so as to impede the flow of water or in any other way causes pollution of water. According to this Section, any person who violates or contravenes with the provision of this Section shall be made liable to be punished with imprisonment of one year and six months which may extend up to 6 years.<sup>2</sup>

### **Drawbacks of this Act**

The Water Pollution Prevention and Control Act suffers to a greater extent from different drawbacks in spite of being one of the earliest acts which were being passed by the Indian Parliament for controlling the pollution of water. One of the chief drawbacks of this Act is that the Act is silent about the groundwater management policies. Moreover, another drawback with which this Act suffers from is the fact that it does not deal with the indiscriminate tapping of ground water, rain water harvesting etc.<sup>3</sup>

### **The Shore Nuisance Bombay and Kolaba Act**

The objective, with which this act was being brought into force, was with the prime purpose of facilitating the removal of nuisances below the high water mark in the islands Bombay and Kolaba. This act aimed at safe navigation of the harbour in Bombay along with the objective of giving immense importance to the interest of the public. The Act empowered the land revenue collector of Bombay to issue a notice for removing the nuisances or obstructions which exist below the high water mark. The procedure for giving such notice is by affixing the same at a conspicuous place or near to the obstruction or the harbour below the high tide. Under this Act, the state is empowered by a competent authority to remove the obstruction if the notice is not being complied with within one month of issuance of the

notice. The implementation can be governed or judged by the fact that fine was being imposed by this act for contravening with the pollution of water.

### **Orissa River Pollution Act, 1953**

Improper disposal of wastes has been one of the prime causes for the pollution of water in India. Disposal of wastes by the factories, industries, dumping of various toxic and poisonous substances into the river has been found to be the deep root cause of the increasing pollution of water in the country. This Act was formulated with the view of regulating the disposal of waste and effluents into the river by the factories and enables maintenance of the streams and water bodies. With the intention of giving this Act a practical implementation, the state of Orissa had established a board to govern the provisions of the Act. This Act gives the board the competency to represent the inhabitants of a particular locality.

There is a dire need of taking control over the increasing level of water pollution in the state of Orissa. Of late water pollution in rivers of Orissa like Mahanadi and Brahmani amount to be the most polluted rivers amongst the rivers present in the state of Orissa. About 50 per cent of water is polluted in these rivers which eventually makes the survival of human life quite difficult. Sewage, waste from factories and mines, disposal of heavy metals like lead and magnesium are the major pollution causing agents in Orissa.<sup>4</sup>

### **The Water Prevention and Control of Pollution Cess Act, 2003**

Industrial waste is one of the causes of the of water pollution. Often, the waste from the industries is being disposed of into the rivers pollutes the river to a significant extent. According to Section 2 of this Act, industries include any operation or process or sewage or disposal treatment or any industrial effluent. The Section 3 of this Act provides an exemption to industries from levying cess on those industries, which consume water below the specified limit. Water gets polluted by the toxic or non-biodegradable substances when the processing of these materials is being done in any industry, and such industries are required to pay cess under this law.

### **The Indian Penal Code and Pollution**

Under the Indian criminal law, provisions have been explicitly laid down to punish the person who commits an offence in contravention to the Code. The Section 277 of the

Code provides for the punishment to be given to the person who commits an offence of fouling of a public reservoir or a public spring voluntarily shall be liable to be punished with imprisonment of three months or with a fine of 500 Rupees or with both. The explanation of this situation can be given through an illustration. A, a resident of Chandigarh, goes near a reservoir and voluntarily puts a toxic substance with an intention to cause harm to the environment and in consideration pollutes the water. The reservoir was fit for public use before, but after the Act of A, the reservoir became unfit for the utilisation of the public. Therefore, A was being held liable for the offence under Section 277 of the IPC, and he was punished with imprisonment of up to three months and a fine of Rupees 500.

### **The River Boards Act, 1956**

The River Board Act, 1956 is aimed at the establishment of rivers and the regulation of inter-state water disputes. The interest of the public is considered to be the prime concern of this Act. The Act gives the power to the State Government for establishing Boards by issuing a special notification. The object of this Act is to resolve and regulate the inter-state water disputes. The Article 262 of the Constitution of India gives the power to the Union to establish and adjudicate the inter-state water disputes prevailing in the country. Through this Act, awards and tribunals were formulated for regulating the inter-state dispute prevailing in a particular country.<sup>5</sup>

### **Damodar Valley Corporation Prevention of Water Pollution Act, 1948**

The Damodar Valley has been among the most flourished river basins which the country has witnessed since times immemorial. With the view of keeping a check on the functioning of this valley, Damodar Valley Corporation was established. During the monsoon season, 80 per cent of the waste comprising waste from mines and industries is discharged into this river. With the coming up of this Cooperation, the agricultural sector had undergone a change. The mining industry had become the need of the hour during that period. The discharge of effluents from these mines was made into this river. This results in the pollution of water.<sup>6</sup>

### **Right To Clean Water: a Fundamental Right**

The Indian Judiciary has initiated a positive step, with the view of controlling pollution of water. Under the Indian Constitution, the judiciary has given a liberal

interpretation to Article 21 of the Constitution of India and included the right to clean water and environment under the ambit of Article 21, Article 48, Article 51(g) of the Constitution of India. Different judicial decisions throughout the history of Fundamental Rights have paved a way to the broad concept of Right to Life. The judiciary had propounded that the Right to Clean water comes under the ambit of the right to life and hence the scope of Article 21, Article 48 and Article 51(g) can include the right to clean water. In the case of Narmada Bachao Andolan Vs. The Union of India, the Supreme Court, held that the right to clean water is a fundamental right under Article 21 of the Indian Constitution. The court had observed that right to clean water is a part of the basic necessity of the human's right to life. The state is duty bound to prevent the water from getting polluted. In the leading case of MC Mehta vs. The Union of India the court held that the preventing the water of river Ganga from being polluted is the need of the hour.<sup>7</sup>

The Water (Prevention and Control of Pollution) Amendment Bill, 2024 was introduced in Rajya Sabha on February 5, 2024. It amends the Water (Prevention and Control of Pollution) Act, 1974. The Act establishes the central and state pollution control boards (CPCB and SPCBs) to prevent and control water pollution.

## CONCLUSION

Water pollution over the years has become a burning topic and is a conundrum. It is the dire need of the hour to control water pollution to protect human health and environmental degradation. Though many acts have been passed by the Parliament to control the pollution of water still, there is an urgent need for preventing our streams, reservoirs, rivers, lakes from being polluted. The government should keep a check on the functioning of reservoirs, streams, lakes and a body should be established to monitor the working of the government. The Water Act regulates water pollution through a system of 'command and control'.

## **REFERENCES**

1. www.environmental laws of India/Water Act.
2. Section 24 of the Water Prevention and Control of Pollution Act,1974.
3. Lasya Popanda, Right to clean water, Legally Services India.
4. A Study of Water Pollution, Kapileshwar Sharma, P.L. Nayak.
5. Article 262 of the Constitution of India.
6. Case study on the Damodar Valley Region.
7. Supra note 3.