

Environmental Governance in India

Geetanjoy Sahu*

Abstract: *This paper attempts to explore the evolution of environmental governance in India. In consonance with this exercise, the study has highlighted the contributing factors for the emergence of environmental governance in India. The study also seeks to address the role of various actors in environmental governance in India with special reference to the role of judiciary in India.*

1. Introduction

Over the years, there has been an increasing awareness and consciousness among the people about their right to a healthy environment. Like any other social, economic and political problems, environmental problem has caught the attention of policy-makers, intellectuals, social movement activists and research scholars. No nation can afford to ignore the emerging environmental problems such as depletion of ozone layer, acid rain, green house effect, soil erosion, deforestation, water pollution, air pollution, noise pollution, etc. In this connection, the United Nations took the first initiative for the preservation of the environment. The U.N. Conference on the Human Environment at Stockholm in June 1972 had evolved the principles and action plan for controlling and regulating environmental degradation. Further, on December 15, 1972, U.N general Assembly passed a resolution emphasizing the need for active co-operation among the States in the field of human environment (**Dwivedi, 1997**). Since the Stockholm Conference on the Human Environment, there have been many conferences and agreements not only at the international level but also at the state level directed towards the protection of the environment and halting environmental degradation. To achieve this objective, a number of actors are involved such as international and national institutions, civil society, environmental groups and local people in the decision-making process relating to environment preservation. The involvement of various actors in the environmental decision-making process has led to the development of the concept of environmental governance. Today the core issue of environmental governance is the way societies deal with environmental problems. It concerns interactions among formal (Legislature, Executive and Judiciary) and informal institutions and actors (Environmental Groups, Pressure Groups, Political Parties etc.) within society that influence how environmental problems are identified and framed.

1.1 Environmental governance addresses how decisions concerning the environment are made and who participates in the decision making process. It seeks to address questions such as:

Who makes and enforces the rules for using natural resources?

What are the rules and the penalties for breaking them?

Who resolves disputes?

How can the public influence or contest the rules over natural resources?

Who represents those who use or depend on natural resources when decisions on those resources are made?

At what level—local, regional, national, and international does the authority over resources reside?

How do those who control and manage natural resources answer for their decisions, and to whom?

How open to scrutiny is the decision making process?

Who owns a natural resource or has the legal right to control it?

The series of questions which environmental governance seeks to address reveal that environmental governance does not exclusively involve decisions made by single entity rather it demonstrates a much more diffuse level of responsibility for environmental governance.

* Research Scholar, Institute for Social and Economic Change, Bangalore- 560072. Ph: 9845616383 (M), 080-23215468 (O); Fax: 91-080-23217008; Email – geetanjoy@rediffmail.com, geetanjoy@isec.ac.in

2. Environmental Governance in India

As in other parts of the world, environmental governance in India had emerged in the seventies and has assumed public appeal in the subsequent years. India, as a signatory and participant to the Stockholm Conference, has enacted a number of environmental laws and employed a range of regulatory instruments to protect its environment. As mentioned earlier international environmental governance emerged with the initiative of U.N in the 1972 when it organized a Conference on the Human Environment at Stockholm. The conference evolved the principles and action plan for controlling and regulating environmental degradation. Further, on December 15, 1972, U.N general Assembly passed a resolution emphasizing the need of active co-operation among the States in the field of human environment. Now States have the right to exploit their natural resources pursuant to their own environmental policies. This right is in accordance with the United Nations Charter and Stockholm Declaration. Charter and International Conventions are unable to develop an effective system of accountability of States on the range of environmental matters. International efforts only regulate activities in one state, which may cause damage to the environment of other states or of areas beyond the limits of national jurisdiction. Since environment cannot be divided in territorial terms, pollution of environment by one state would automatically effect the environment of entire world. Realising that planetary environment is indivisible, a large number of states have enacted various laws for environmental protection. India is one of the few States of the world which have made specific reference in the Constitution to the need for environmental protection.

There are scholars who argue that environmental governance in India emerged as a response to global initiatives taken by UN. Dwivedi's (1997) work on India's environment policy led to the development of the widely held view that the evolution of environmental governance in India was due to the impact of external factors rather than a realization of our policy makers. It was in response to the efforts of the UN Conference on the Human Environment in 1972 that the Indian policymakers incorporated specific provisions to protect the environment. India was a participant in this Conference as well as a signatory to the environmental principles decided by the conference to be followed by the nation-states. This view is widely shared by other scholars like (Bajwa and Bains, 1992; Pal, 1999), who argued that the constitution of India did not contain any direct provision regarding the protection of natural environment. Only after taking note of Stockholm Conference and growing awareness of the environmental crises, amended it to add direct provisions for protection of environment (Bansal and Gupta, 1992). The Constitution (Forty-Second Amendment) Act, 1976 has made it a fundamental duty to protect and improve the natural environment. Article 48-A states that: "The state shall endeavour to protect and improve the environment and to safeguard forests and wildlife of the country". Corresponding to the obligation imposed on the State, Article 51 A (g), which occurs in Part IVA of the Constitution dealing with Fundamental Duties, casts a duty on every citizen of India. Article 51-A (g) provides that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures".

Prior to this phase, Indian environmental law mainly consisted of claims made against tortuous actions, such as nuisance or negligence (Divan and Rosencranz, 2001). The Water (Prevention and Control of Pollution) Act of 1974 gave the statute book its first real foundation for environmental protection. Other major enactments that followed were The Forest Conservation Act (1981), The Air Prevention and Control of Pollution Act (1986), The Environmental protection Act (1986), The National Environment Tribunal Act (1995) and The National Environment Appellate Act (1997).

Therefore, the Constitution makes double provisions. This includes directing the State for the protection and improvement of environment and expects citizens to help in the preservation of natural environment. As far as legislative power was concerned, the Amendment also moved the subjects of forests and protection of wild animals and birds from the State List to the Concurrent List. The development of environmental policy has also seen a considerable share of initiative by the Indian judiciary, particularly the higher judiciary consisting of the Supreme Court of India and the High Courts of the States (this part is discussed in detail in later part of the paper).

Other scholars are of the view that evolution of environmental governance in India is also part of the environmental movements in India. Contemporary environmental governance has emerged in response to the

resource oriented development pattern which has undermined the productive potentiality of natural resources and created severe ecological imbalances (Sinha, 1998). The recent ecological degradation and economic deprivation generated by the resource intensive classical model of development have resulted in environmental conflicts across the world. Its ramification can be noticed in the increasing environmental movements and concern all over the world in general and India in particular. These environmental movements are slowly progressing toward defining a model of development to replace the current resource intensive one that has created severe ecological instability and an expression of the socio-ecological effects of narrowly conceived development based on short-term criteria of exploitation (CSE, 1982). The movements are revealing how the resource-intensive demands of development have built in ecological destruction and economic deprivation.

Sinha(1998) argues that with the emergence of environmental movements there is a change in the political and economic attitudes and practices in several important ways. Modifications to social cost-benefit analysis, the onset of environmental impact assessment and environment auditing, risk analysis, public inquiries, new legislative measures, plus the successful political-legal activities of non-governmental groups have all helped to give policies and actions an environmental color. Similarly, there are scholars like Kholi (1994) who strongly argues that the evolution of environmental governance in India because of the emergence of societal forces in general and environmental movements in particular. The emergence of societal forces in the early 1970s challenged the state-centric development policy. Among the societal forces, environment movements challenged the ideology of economic development which had not taken environment factors into consideration. The ideology of economic development, which remained almost monolithic in the first two decade of policymaking process, faced a major foundational challenge from the environmental groups.

The work of Shiva (1991) on environment movements in India focused on the role of environment groups in shaping environmental governance in India. Using a theoretical framework that was justified with empirical case studies, scholars like Kothari (2001) hold the view that the increasing awareness of people about their right to environment and the emergence of nation-wide environment movements have caught the attention of the policymakers. People's awareness in the state of environment continued to remain high over the years. They continue to raise questions on the status of different policies concerning environment protection. This kind of growing awareness among people about their right to a wholesome healthy environment has able to pressurise the policy-making process to consider environment factor while formulating development policy.

Coupled with this, public interest litigation is playing a significant role in the evolution of environmental governance in India. Introducing public interest litigation concept in the 'Ratlam Municipal Council Vs Vardhichand' case, Mr. Justice Krishna Iyer observed that, "Social justice is due to the people, and therefore, the people must be able to trigger off the jurisdiction vested for their benefit to any public function". He recognized public interest litigation as a constitutional obligation of the Courts. Now a spate of environmental cases has been brought before the Courts through public interest litigation. They have been filed either by individuals, voluntary organizations, or by letters/Petitions sent to the judges (A detail discussion is made in the later part of the paper).

The above review of literature on evolution of environmental governance in India reveals that environmental governance in India is of recent origin. It also shows that there are a number of actors involved in the emergence of environmental governance. These actors include state, civil society, environmental movements etc. Therefore, environmental governance in India does not exclusively involve decisions made by single entity rather it demonstrates a much more diffuse level of responsibility for environmental governance.

3. Role of Judiciary in the Evolution of Environmental Governance in India

India employs a range of regulatory instruments to preserve and protect its natural resources. There are stated to be over 200 Central and State statutes, which have at least some concern with environmental protection, either directly or indirectly (Divan and Rosencranz, 2001). However, failure on the part of the government agencies to effectively enforce environmental laws and non-compliance with statutory norms by polluters has resulted in an accelerated degradation of the environment. Most of the rivers and water bodies are polluted and large-scale deforestation is being carried out with impunity. There has also been a rapid increase in casualties due to respiratory

disorders caused by widespread air pollution. Such large-scale environmental degradation and adverse effects on public health prompted environmentalists and the people, as well as non-governmental organizations, to approach the courts, particularly the higher judiciary, for suitable remedies (Deshpande, 1992). This is precisely where the role of judiciary in environmental policy can be observed and needs to be examined.

The role of judiciary in environmental governance can be seen in terms of judiciary intervention in the environmental policy making process as well as its role in the implementation of existing environmental laws and shaping its implementation process. The intervention by the judiciary in environmental cases has resulted in giving new lights to several provisions of the constitution, which earlier remained unnoticed. For example, the Court fortified and expanded the Fundamental Rights enshrined in Part III of Constitution. In the Deheradun Quarrying Case¹, the Supreme Court held that the fundamental right to a wholesome environment is a part of the fundamental right to life in Article 21² of the Constitution. In addition to this, in numerous environmental cases the Supreme Court is stepping into the shoes of the administrator, marshalling resources, issuing directions to close down factories, requiring the implementation of environmental norms, cutting through bureaucratic gridlock and so on. With the intervention of judiciary, hundreds of factories have installed effluent treatment plants and there is a heightened environmental awareness among administrators, the subordinate judiciary, police and municipal officials, all of whom are involved in implementing the court's orders.

3.1 Factors Influencing Judicial Role in Environmental Governance of India

Many factors influence judicial role in environment governance of India. However, the present paper has highlighted the role of environmental movements and public interest litigation in influencing judicial role in environmental governance of India.

3.1.1 Influence of Environmental Movements on Judiciary

The concern for the present day environmental problems in most of the developing countries like India is of relatively recent origin. Even the recent awareness and concern for environmental protection at the policy level is a donor induced and at the grassroots level it is due to efforts by individuals and NGOs. In the absence of ground level awareness and concern, environmental aspects have remained more or less peripheral to the contemporary social movements in India. Some of the contemporary movements, however, acquired the status of ecological or environmental movements in retrospect as these movements have widened their focus from basic survival needs to ecological concerns (Gadgil and Guha, 1994). In general, these movements are often grouped under tribal or peasant movements (Shah, 2004) and under new social movements (Singh, 2001). Some even title them as middle class or elitist movements (Shah, 2002). The reason being that ecological aspects are linked with the problems associated with peasants and tribals whose survival is attached to the status of natural resources. The problems or demands of tribal as well as non-tribal poor are often articulated by urban middle class and elite. In the context of a coalition between affected people and the middle class spokes persons the real issues tend to get clouded as the debate is drawn into different forums in order to attract national and international attention (Wignaraja, 1993). Environmental movements in India, therefore, are not necessarily for the 'green' or 'clean' earth or for saving mankind's heritage and endangered species as in the west, but for the very survival of the local poor (Shah, 2004). Even among these ecological movements, only a few can claim success in achieving some of their objectives and able to influence judicial decision on environmental governance in India while others remain unnoticed. With a view to understand the influence of environmental movements on judicial decision on environmental policy an attempt has been made to review some of the environmental movements in India.

One of the early and complete successes of environmental movements in influencing judicial decision was the abandonment of the Silent Valley hydroelectric project in Kerala. This movement was organised by the Kerala Sastra Sahitya Parishat (KSSP) in collaboration with wild life conservationists. In this project, however, there was no local

¹ AIR, 1987 SC 395: Doon Valley Lime-Stone Quarrying Case-Rural Litigation and Entitlement Kendra and others v. State of Uttar Pradesh, Writ Petition No. 8209 and 8821 of 1983.

² Article 21 of Indian Constitution deals with protection of life and personal liberty.

people's involvement as there was no displacement of people. The movement was fought primarily on environmental grounds and mostly at the intellectual level. The major concerns of this movement were the adverse environmental impact on Silent Valley, one of the last surviving natural tropical forests in India and protecting a rare breed of monkey, lion-tailed macaque. With the active support from the International organizations like World Wildlife Fund and the International Union for the Conservation of Nature and Natural Resources the movement assumed International importance (Sethi, 1993). In the face of wide support by all the political parties in favour of the hydroelectric project the movement received national and international support and was able to convince the Court the repercussions of the project and the danger to the ecosystem of the area. Taking note of the environmental cost the Judiciary has asked the government to cancel the plan for the project.

The most popular movement in influencing judicial decision on environmental governance in the history of India is the movement against the Narmada River Valley Project. To start with, this movement was centered on the issue of human rights. Due to improper implementation of the rehabilitation programmes by the State, the human rights activists have become the articulators of anti-dam protests. Their demands included complete stopping of the dam, resettlement and rehabilitation benefits to the oustees (Baviskar, 1995).

In May 1994, the NBA filed a PIL against the project in the Supreme Court under Article 32 of the Indian Constitution. Though the NBA petition was dismissed and in 2000 the Court allowed the dam to be built to its full height of 138 metres the NBA was able to influence judiciary decision in terms of evolution of various new policies relating to environment protection. For example, the National Rehabilitation Policy is one of the important outcomes of this case. Similarly, in the Bhopal Gas Tragedy Case³ the judicial intervention has resulted in evolving the polluters pay principle which is major implications in other environmental cases in subsequent years. There are other cases where judicial intervention has been found due to the initiative taken by environmental groups like the Delhi Vehicular Pollution case⁴. In this case, environmental groups like CSE; TERI had played an important role in approaching the Court about Delhi vehicular pollution. However, in this case, there was no movement as such but the environmental groups approach to the Court was totally based on information-based activism on the environmental issue.

To sum up the influence of environmental movements on judicial decision on environmental policy depends on the capacity of the movements or groups to convince the Court about the environmental problem and the support they get from national and international forum. It also depends on their accessible to the decision making process and political leaders. There are many micro level movements such as Gandhamardhan Movement in Orissa, which has been involved in the struggle against environmental degradation. However, this movement has not been able to draw the attention of policy-makers due to lack of support from outside, media attention and inconsistency in the movement. To influence the judiciary what is more important is to convince it the cause and affects of environmental problems in a systematic and scientific manner, which is lacking in the micro level movements.

3.1.2 Influence of Public Interest Litigation on Judiciary

The development of Public Interest Litigation (PIL) in India is of recent origin. Till 1960s and seventies, the concept of litigation in India was still in its rudimentary form and was seen as a private pursuit for the vindication of private vested interests (Deshpande, 1992). Litigation in those days considered mainly of some action initiated and continued by certain individuals, usually, addressing their own grievances/problems. Thus, the initiation and continuance of litigation was the prerogative of the injured person or the aggrieved party. Even this was greatly limited by the resources available with those individuals. There was very little organized efforts or attempts to take up wider issues that affected classes of consumers or the general public at large. However, these entire scenario changed during eighties with the Supreme Court of India led the concept of Public Interest Litigation. The Supreme Court of India gave all individuals in the country and the newly formed consumer groups or social action groups, an easier access to the law and introduced in their work a broad public interest perspective. Further, through the so-

³ Union Carbide Corporation Vs. Union of India, AIR 1990, SC 273.

⁴ M.C.Mehta Vs. Union of India, AIR 1999, SC 14.

called PIL, the litigants can focus attention on and achieve results pertaining to larger public issues, especially in the fields of human rights, consumer welfare and environment.

The activism of court has been visible in issues relating to environmental protection due to the initiative taken by public interest litigation. The liberal interpretation of various rights by court was utilized by action groups in filing thousands of PILs on range of issues related to environment. Since early 1980s, the court could be seen dealing with range of environmental issues such as pollution by hazardous industries, protection and conservation of forests, urban and solid waste management, vehicular pollution, protection and conservation of wild life (Sangeeta, 1997). The Courts were asked to deliberate over the protection of important historical monuments like the Taj Mahal as a consequence of industrial pollution near Agra⁵, the pollution of the river Ganges⁶, protection of Deheradun Valley⁷ from stone quarrying and so on. More importantly, the Courts were asked to decide the complex question of environment versus development (Ramesh, 2002). Litigations objecting to the construction of dams, claims of resettlement and rehabilitation, questioning government's callous attitude to the pressing issue of environmental hazardous while designing any projects, protection of tribal rights are some of the important issues the courts were asked to deliberate. In other words, with the emergence of PIL as a strategic arm to aid the general public, the judiciary can be seen in almost every case dealing with environment protection.

4. Impact of Judiciary on Environmental Governance of the Country

Environmental governance in India has seen a considerable share of initiative by the Indian judiciary, particularly the higher judiciary, consisting of the Supreme Court of India and the High Courts of the States. The role of judiciary in environmental governance is examined in terms of judiciary intervention in the environmental policy making process as well as its role in the implementation of existing environmental laws and shaping its implementation process. A brief review of certain selected environmental cases have been carried out to understand different dimensions of judiciary influence in environmental governance of India. Judiciary intervention has been observed in various environmental cases of different nature. Of these, a few cases have been recognized as benchmark wherein judiciary's intervention has either influenced policy-making or shaped implementing the environmental policy. Some of these cases have been purposively selected to understand the role of judiciary in environmental governance through the review of cases. These cases include:

Doon Valley Lime Stone Quarrying Case: This is the first case of its kind in India, relating to environment and ecological balance. The petition was filed by the local NGO named Rural Litigation and Entitlement Kendra and others against the State of Uttar Pradesh. The main allegations therein related to unauthorized and illegal mining operations carried on in the Mussoorie Hills and the area around adversely affecting the ecology of the area and leading to environmental disturbances. In this case, the Court made an implicit reference to Article 21 of the Constitution by recognizing right to a wholesome environment is part of fundamental right to life.

Ratlam Municipality vs. Vardichand Case: In this case the judiciary for the first time treated an environmental problem differently from ordinary tort. Though not a public interest petition, this was a litigation in the nature of public interest under Section 133 of Code of Criminal Procedure asking for an order to the Municipal Council of Ratlam to do its duty toward the member of the public by stopping the stench and stink caused by open drains and public excretion by nearby slum-dwellers. The Court observed that the Municipality could not extricate itself from its responsibility. In this case, the Court for the first time established the link between Article 21 which guarantees right to life and a healthy environment.

In **M.C.Mehta vs. Union of India**, popularly known as Delhi Gas Leak Case, the Supreme Court was confronted with complex issues relating to industrial pollution and the interests of workers and enterprisers (that is, right to environment versus right to livelihood). This case originated in a writ petition filed in the Supreme Court by an environmentalist lawyer M.C.Mehta, as a public interest litigation. The petition sought to close and relocate

⁵ Taj Pollution Matter: M.C.Mehta Vs. Union of India and Others, Writ Petition No.13381/1984.

⁶ AIR 1988, SC 1129.

⁷ AIR, 1987 SC 395: Doon Valley Lime-Stone Quarrying Case-Rural Litigation and Entitlement Kendra and others v. State of Uttar Pradesh, Writ Petition No. 8209 and 8821 of 1983.

Shriram Caustic Chlorine and Sulphuric Acid plants located in 76-acre industrial complex, in a thickly populated West Delhi. In this case, the Supreme Court had to balance between the existence of hazardous industries, interests of workers and the scarcity of chlorine products.

Narmada Dam Case provides an insight into the interface between various institutions and the role of judiciary in environmental governance of India. It is exemplary because no major project in India has brought the problems of ecology and development into such a high level of informed debate, political mobilization and grassroots activism as this project has. This case has provided an opportunity to study the different types of judicial decision on the same case and factors responsible for Court's inconsistency decision. Moreover, the intervention of judiciary has also led to the emergence of new policies like National Rehabilitation Policy in India.

Ganga Water Pollution case and Bhopal Gas Tragedy Case: In both the cases, the intervention of judiciary has resulted in evolution of various policies (for example, 'polluters pay principle' and 'absolute liability'). The evolutions of these policies in subsequent years have implications for other environmental cases.

Godavarman Case: This case gives an opportunity to understand forest governance in India where it reinterprets the forest law in India. It also reflects the dual strategy of judiciary on environmental issues that is how the Supreme Court in the forest cases was silent on the claims of the state in protecting the environment where as it took environment as its main plank in industrial and polluted-related issues.

Delhi Vehicular Pollution Case: Delhi vehicular pollution case is first vehicular pollution case in India which has caught the attention of judiciary through a public interest litigation filed by an environmentalist lawyer named M.C.Mehta. In this case, the Supreme Court of India got the support of various organizations and institutes, which were able to convince the judiciary that the effect of vehicular pollution is deteriorating human health in Delhi and it needs urgent attention of the administration. In response to the petition the Supreme Court of India on July 28, 1998 asked the Government of Delhi to transform all the commercial vehicles into Compressed Natural Gas (CNG). Use of clean fuel (CNG) in commercial vehicles has recently been made mandatory only in Delhi by the judiciary even though the petitions have been filed in other cities of India. Again, the institutional response to the judiciary decision was effective and implemented in the prescribed time. In this connection, it provides an opportunity to understand why judiciary has been able to influence policy and implementation in some case while in many other cases; its decisions have yet to be implemented.

The above-mentioned environmental cases have shown different dimensions of judicial role in environmental governance of India. The cases selected for the review show that judiciary is playing a significant role in the evolution of the concept of environmental governance in India. Some of the important developments in this regard are as follows –

The Court has expanded the scope of fundamental rights, that is, the 'right to life' under Article 21. 'Right to life' was linked to 'right to have wholesome environment' in the Doon Valley case when the Court stated that protecting and safeguarding the right of the people to live in a healthy environment cannot be compromised.

Secondly, the judicial approach to environmental issues appears to be assuming the role of other organs (legislature and executive). The judiciary, in several public interest litigation cases had entered into the fields normally meant for executive actions. For example, the Court used interim directions as a measure to influence different executive authorities in several cases as discussed above.

Thirdly, in the process of its intervention judiciary is trying to arouse public awareness on pressing environmental issues either by means of liberalizing the scope of public interest litigation or by directly encouraging various citizen's groups and NGOs to take up these issues. For example, in M.C.Mehta vs. Union of India, the Court observed - "no law can indeed effectively work unless there is an element of acceptance by the people in society. This is possible only when steps are taken to make the people aware of the indispensable necessity of their conduct being oriented in accordance with the requirement of law"⁸. Besides, the Court directed the Union Government to issue directions to all state governments to enforce the publicity mechanism at cinema halls, video parlors etc. and

⁸ AIR 1992 SC 389.

the Ministry of Information and Broadcasting was directed to highlight the various aspects of environmental pollution and Education Boards were asked to initiate steps to enforce compulsory education on environment.

Finally, the judicial intervention in environmental issues has brought a positive response from the executive and legislative authorities. For instance, in response to the Doon Valley case, the Union Government took necessary steps to include the Doon Valley under ecological fragile area. In other environmental cases like Ganga Pollution case, the Central Government reacted with a master plan called Ganga Action Plan in July 1986. Moreover, Public Liability Insurance Act, 1991 came as a response to Bhopal Gas Tragedy. Besides, active intervention of judiciary has activated agencies like Central Pollution Control Board.

Conclusion

To conclude, it can be said that the Indian Judiciary has played a significant role in environmental governance of India. In numerous environmental cases the Judiciary is stepping into the shoes of the administrator, marshalling resources, issuing directions to close down factories, requiring the implementation of environmental norms, cutting through bureaucratic gridlock and so on. As a result of which, hundreds of factories have installed effluent treatment plants and there is a heightened environmental awareness among administrators, the subordinate judiciary, police and municipal officials, all of whom are involved in implementing the court's orders.

However, the Judiciary's activism in various environmental cases show how difficult it is for a court to manage the environment for a nation of a billion people. Environmentalists cannot help but praise the Court for its defense of the environment and human rights, but they must see the harmful institutional and constitutional consequences of the Court's ruling. In most of the pollution cases, the Court's action seems likely to impede capacity building in the pollution control agencies, and thereby to compromise the development of sustained environmental management in India. Since many developing countries look to India as a country whose human rights are championed by an independent judiciary, it would be enormously discouraging to see the Indian Supreme Court brought low. If the other branches of the Indian government withdraw their support and if people refuse to obey the Court's orders, the Supreme Court of India would be severely weakened. Indian civil society groups need also to recognize what is at stake here. They cannot afford to win this case at the cost of a discredited Judiciary.

References

- Ahuja, Sangeeta (1997), *People, Law and Justice: a PIL case Book*, Hyderabad: Orient Longman.
- Bajwa, G. S. and Bains, M. S. (1992), *International and National Efforts for environmental Protection- An Assessment, Environment Administration, Law and Judicial Attitude*, in Diwan & Diwan (eds.), New Delhi: Deep & Deep Publications.
- Baviskar, Amita (1995), *In The Belly of the River: Tribal Conflicts over Development in the Narmada Valley*, Delhi: Oxford Universtiy Press.
- Centre for Science and Environment, (1982), *State of India's First Environment Report*, New Delhi.
- Deshpande, V. S. (1992), *Environment, Law and Public Interest Litigation*, in Diwan & Diwan (eds.), *Environment Administration, Law and Judicial Attitude*, New Delhi: Deep & Deep Publications.
- Divan, S. & Rosencranz, A. (2001), *Environmental Law and Policy in India*, New Delhi: Oxford University Press.
- Kohli, Atul (1994), *State Power and Social Forces: Domination and Transformation in the Third World*, UK: Cambridge University Press.
- Kothari, Smitu (2001), *Social Movements in India: Institutions, Interests and Identities*, in Atul Kohli (ed.), *The Success of India's Democracy*, UK: Cambridge Press.
- Pal, Chandra (1999), *Environmental Pollution and Development*, New Delhi: Mittal
- Ramesh, M. K. (2002), *Environemntal Justice: Courts and Beyond*, *Indian Journal of Environmental law*, Vol. 3, June, No. 1, p. 20.

Sathe S.P. (2002), *Judicial Activism in India*, New Delhi: Oxford University Press, p.25

Shiva, V (1991), *Ecology and Politics of Survival: Conflicts over Natural Resources in India*, New Delhi: Sage Publications.

Sinha, P.C. (1998), *Green Movements*, New Delhi: Anmol Publications Pvt. Ltd.