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REVISITING CORPORATE ENVIRONMENTAL LIABILITY IN INDIA: A CRITICAL ANALYSIS OF LAWS, JUDICIAL INTERVENTION, AND REGULATORY GAPS

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ABSTRACT

India's fast industrialization has led to increased environmental deterioration, including soil, water, and air pollution. As a result, the concept of corporate accountability for environmental harm has gained significance. The Environmental Protection Act of 1986 and the Water (Prevention and Control of Pollution) Act of 1974 are the two key pieces of legislation that hold businesses accountable for environmental harm. The legal order's interpretation and implementation of these regulations were essential in ensuring that businesses were held accountable for environmental harm. Companies may be held accountable for environmental harm under Indian law, even if it was unintended or the result of suppliers' or subcontractors' actions. The legal guidelines governing corporate liability for environmental harm in India are evaluated critically in this paper. It assesses the existing legal framework, including important statutes like the Companies Act of 2013 and the Environment (Protection) Act of 1986, and looks at significant court rulings to follow the evolution of environmental legislation and how it affects corporate responsibility. In order to find possible areas for improvement, the study also analyzes challenges and criticisms with regard to the efficient execution of corporate responsibility rules and compares them with international legal principles. The report offers suggestions for strengthening India's legal system and enhancing corporate accountability for environmental harm in light of these findings.

KEY WORDS: Corporate liability, environmental damages, India, environmental law, environmental jurisprudence, regulatory framework, corporate accountability.

I. INTRODUCTION:

Despite a legal framework, it is nevertheless challenging to pursue corporate convictions for environmental damage in India. Pollution control organizations occasionally lack the funds required to carry out the Water (Prevention and Control of Pollution) Act, and public awareness of environmental issues and the legal foundation for environmental protection is insufficient. Because there are few enforcement resources and public knowledge, it is challenging for citizens to hold businesses responsible for environmental harm. India confronts tremendous difficulties in striking a balance between environmental sustainability and economic growth due to the country's fast industrialization and economic expansion. There is a greater chance of pollution, ecological harm, and environmental deterioration as enterprises grow and modernize. Our cultural heritage and customs are strongly rooted in environmental protection.

The value of protecting nature is emphasized in ancient writings such as the Atharvaveda, which presents Earth as a beloved paradise blessed with the riches of nature. The concept of holding businesses responsible for environmental damage has attracted a lot of attention worldwide, highlighting the growing recognition of businesses' role in environmental deterioration and the need for accountability measures. This study looks at corporate responsibility for environmental harm in India as well as the legal system, the courts, and the difficulties in putting these regulations into practice. India's legal framework for corporate accountability for environmental harm is based on the Water (Prevention and Control of Pollution) Act of 1974 and the Environmental Protection Act of 1986. The Environmental Protection Act establishes the legal framework for both environmental protection and pollution prevention and control laws.

The law gives both the federal and state governments the power to punish violators and take action to safeguard and enhance the environment. Holding people or businesses accountable for the expenses incurred as a result of environmental damage is known as environmental liability. With its roots in the "polluter pays principle," it includes a range of accountability mechanisms, such as fines, cleanup, compensation, and compliance initiatives. These obligations result from a variety of national and international legal frameworks. Companies are forced to repair damage or make amends when environmental liability is enforced, which encourages them to take proactive measures to prevent environmental harm. In the end, environmental liability informs businesses of possible fines, penalties, or legal ramifications for breaking environmental regulations, ensuring corporate accountability and deterrent. India's

dedication to the ideals of a welfare state is demonstrated by the fact that environmental preservation and improvement are inscribed as constitutional imperatives.

The Indian judiciary has been instrumental in holding corporations responsible for environmental harm by interpreting and enforcing the provisions of these Acts. In numerous instances, the courts have held companies liable for environmental damage, even when it was unintentional or the result of suppliers' or subcontractors' negligence. Furthermore, courts have ruled that companies must take steps to safeguard the environment or face liability for any future damages.

Even though India has the required legal framework, it is nevertheless very difficult to hold corporations accountable for environmental harm. In order to take action to preserve and protect the ecosystem, a company must recognize the interdependencies and relationships between humans, nature, and other living forms, which are, in fact, the essence of the well-being of the human race. It must also adopt ecocentric policies instead of anthropocentric ones and make decisions or carry out actions that serve the goals and values of environmental preservation, protection, and management. Whether an organization is polluting or not, protecting the environment should be the top priority for any socially and ethically responsible organization. Another challenge in proving corporate responsibility for environmental damage is the lack of coordination amongst the many government agencies. A few government organizations, such as the Ministry of Environment, Forests, and Climate Change (MoEFCC), the Central Pollution Control Board (CPCB), and the SPCBs, are in charge of enforcing environmental legislation. However, these entities usually don't work together, which leads to regulatory loopholes and ineffective enforcement.

This study finds potential and gaps for improving corporate environmental liability in India by thoroughly examining current systems and new developments. Additionally, it makes suggestions for institutional capacity-building, stakeholder engagement, and regulatory reforms to promote a more accountable and sustainable business sector.

II. LEGAL FRAMEWORK FOR CORPORATE LIABILITY FOR ENVIRONMENTAL HARM IN INDIA

In India, corporate liability for environmental harm is based on the Water (Prevention and Control of Pollution) Act of 1974 and the Environmental Protection Act of 1986.

These Acts impose penalties for disobedience and mandate that companies safeguard the environment. In addition to directions from the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs), the Ministry of Environment, Forests, and Climate Change (MoEFCC) has also drafted rules and regulations. The development of corporate environmental liability in India has been influenced by a complex interaction between legal precedents, regulatory frameworks, and societal expectations. Regulatory actions like the 1986 Environment (Protection) Act and The 2013 Companies Act established the framework for corporate responsibility and environmental preservation. But there are still issues with properly implementing these rules and making businesses accountable for environmental damage. The Environment (Protection) Act of 1986 provides a broad definition of the environment, including the land, water, and air as well as the interactions between these elements and people, wildlife, plants, microbes, and property. In addition, the Indian Constitution's chapter on fundamental obligations mandates that all citizens protect the environment. India's main environmental protection law is the Environment Protection Act of 1986. By lowering dangers to people, other animals, plants, and property, the law seeks to protect and improve the environment. The Act gives the federal and state governments the power to pass legislation that protects and improves the environment and to control and prohibit activities that harm it. The statute also specifies the penalties for breaching the law. The Environmental Protection Act holds the business accountable for any harm its operations create to the environment. Everyone is required to take the appropriate steps to prevent environmental contamination, as stated in Section 5 of the Act. penalties include fines and imprisonment for breaking the Act's regulations. Additionally, the law permits the federal and state governments to pursue monetary reparations for wrongdoers. The Environment (Protection) Act of 1986 provides a broad definition of the environment, including the land, water, and air as well as the interactions between these elements and people, wildlife, plants, microbes, and property. In addition, the Indian Constitution's chapter on fundamental obligations mandates that all citizens protect the environment. Part III of the Indian Constitution guarantees fundamental rights that are essential for the holistic development of every individual, inherent solely by virtue of being human. Article 51-A (g) explicitly states that it is the responsibility of every Indian citizen to preserve and improve the natural environment, including forests, lakes, rivers, and wildlife, as well as to demonstrate compassion towards all living creatures. The 1974 Water (Prevention and Control of Pollution) Act is a key piece of legislation for protecting India's environment. By limiting the discharge of pollutants into aquatic bodies, the Act aims to prevent and mitigate water pollution. The Act grants the federal and state governments the power to regulate the

release of pollutants into water bodies and to establish standards for the quality of the water. The Act outlines penalties for violating its provisions in addition to fines and incarceration.

Under the Water (Prevention and Control of Pollution) Act, corporations may be held liable for environmental harm caused by their operations. Section 24 states that fines and incarceration are the penalties for violating the Act's regulations. Additionally, the Act grants state governments the power to demand damages from violators. The legal framework for corporate accountability for environmental harm in India includes legislation and regulations created by the MoEFCC. The MoEFCC has created rules and regulations for the management of biomedical waste, e-waste, and hazardous waste. Businesses run the risk of fines if they fail to handle and dispose of these wastes responsibly in accordance with these laws and regulations. Fundamental rights that are essential to each person's overall development and that are inalienable simply by virtue of being human are guaranteed by Part III of the Indian Constitution. One of these rights is the right to a clean and healthy environment, which is essential for the growth and realization of one's potential. This section's Articles 21, 14, and 19 have been crucial in guaranteeing environmental preservation. According to Article 21 of the Constitution, no one may be deprived of their life or personal freedom unless it is done so in accordance with the established legal process. The fundamental right to life, which includes the right to a healthy environment free from infection, is contained in Article 21 of the Supreme Court's historic decision in *Maneka Gandhi v. Union of India*. The *Dehradun Quarrying Case*, also known as *Rural Litigation and Entitlement Kendra v. State*, was the first case to establish the acknowledgment of the right to live in a healthy environment under Article 21. In this case, the Supreme Court addressed issues of ecological balance and environmental deterioration by stopping illicit mining operations under the Environment (Protection) Act, 1986. The Supreme Court later upheld the right to live in a pollution-free environment as a crucial part of the fundamental right to life under Article 21 of the Constitution in *M.C. Mehta v. Union of India*.

In India, corporate liability for environmental harm is based on the Water (Prevention and Control of Pollution) Act of 1974 and the Environmental Protection Act of 1986. These Acts impose penalties for disobedience and mandate that companies safeguard the environment. The MoEFCC-developed rules and regulations make up the legislative framework in addition to directives from the CPCB and SPCBs. Despite the existence of a legal framework, it is challenging to demonstrate corporate accountability for environmental damage in India. Both increased public knowledge of environmental issues and more enforcement are

necessary.

III. ROLE OF THE JUDICIARY IN ENFORCING CORPORATE LIABILITY FOR ENVIRONMENTAL HARM IN INDIA

To make sure that companies in India are held accountable for environmental harm, the legal system is crucial. In addition to having the power to interpret and carry out laws and regulations relating to corporate accountability for environmental harm, the judge is also in charge of overseeing legislative and administrative actions. This essay looks at the judiciary's involvement in India's attempts to hold businesses responsible for environmental harm. India's legal structure, important court decisions, and the difficulties in implementing environmental legislation there are given special consideration. In fact, India's environmental jurisprudence has developed along a progressive path marked by significant legislative changes and judicial interventions intended to strengthen environmental protection and promote sustainable development. Over the years, courts have been crucial in interpreting and upholding environmental legislation, which has had a big impact on the legal framework around corporate liability for environmental harm. Courts have shaped the legal landscape by enforcing environmental justice and sustainability principles, holding corporations responsible for their environmental impact, and rendering historic judgments and opinions.

Judicial Decisions

In India, the judiciary has been instrumental in upholding corporate responsibility for environmental damage over the years. Numerous historic rulings from the Supreme Court and High Courts have had a big influence on Indian environmental law. The following is a discussion of some significant court rulings:

- **The Bhopal Gas Disaster case:**

The Bhopal Gas Disaster in 1984, which claimed thousands of lives and revealed the weaknesses in India's industrial safety and environmental regulatory system, was one of the turning points in the country's environmental jurisprudence. The tragedy's legal ramifications led to numerous court rulings and lawsuits, which emphasized the necessity of strict regulations to hold companies responsible for environmental catastrophes. The notion of "absolute liability" for hazardous activity was highlighted in the seminal case of Union Carbide Corporation v. Union of India, which established significant precedents regarding corporate

liability.

- **M.C. Mehta V/s Union Of India¹**

This is one of India's most well-known and significant environmental incidents. The case dealt with Kanpur, Uttar Pradesh, tanneries' pollution. In order to lessen pollution, the Supreme Court mandated that the tanneries shut down until they had sewage treatment facilities. The court also mandated that the federal and state governments create a commission to regulate urban pollution as part of a number of environmental protection measures.

- **Vellore Citizens Welfare Forum v. Union of India²**

The involvement of tanneries in Vellore, Tamil Nadu's pollution was the focus of that court case. The Supreme Court ruled to punish individuals who defied the ruling and to outlaw tanning parlors without a water treatment system. The court also ordered the federal and state governments to implement a variety of environmental protection measures, such as developing rules for the treatment of hazardous waste.

- **Indian Council for Enviro-Legal Action v. Union of India³**

That case relates to industrial contamination in Bhopal, Madhya Pradesh. In its ruling, the Supreme Court ordered the federal and state governments to implement a number of environmental protection initiatives, one of which was the creation of a commission to manage urban pollution. The court also ordered the shutdown of all industries without sewage treatment plants and fined those who disregarded its rules.

- **Subhash Kumar v. State of Bihar⁴**

In this instance, factory pollution in the Bihar city of Dhanbad was the issue. The Supreme Court ordered the closure of all businesses without sewage treatment plants and fined the offenders in its ruling. The establishment of a commission to oversee municipal pollution is one of the numerous environmental protection measures mandated by the court for both the federal and state governments.

¹ 1987 SCR (1) 819; AIR 1987 965

² AIR 1996 SCC 647

³ 1996 AIR 1446 1996 SCC (3) 212 JT 1996 (2) 196 1996 SCALE (2)44

⁴ 1991 AIR 420 1991 SCR (1) 5 1991 SCC (1) 598 JT 1991 (1) 77 1991 SCALE (1)8

- **Vizag Gas Leak Tragedy (2020)**

It is true that the May 2020 gas leak at the LG Polymers chemical facility in Visakhapatnam, Andhra Pradesh, was a terrible incident that caused serious environmental harm in addition to fatalities and injuries. This incident raised questions about corporate culpability for industrial mishaps as well as safety regulations in the chemical industry. The incident serves as a sobering reminder of the urgent need for strict regulatory monitoring and corporate responsibility to avert such industrial tragedies, even though legal actions are still ongoing. It emphasizes how crucial it is to make sure businesses follow strict safety regulations and environmental laws to protect the environment and public health.

- **Vedanta Limited v. State of Tamil Nadu (2021)⁵**

The Tamil Nadu Pollution Control Board's shutdown order against Vedanta Limited's Sterlite Copper plant in Tuticorin, Tamil Nadu, was recently affirmed by the Madras High Court. The court justified the closure by pointing to environmental infractions and local citizens' worries about public health. This ruling emphasized the right of impacted people to a clean and healthy environment and highlighted the importance of environmental compliance. It also emphasized the critical role that the judiciary plays in holding businesses responsible for environmental damage, underscoring the significance of following environmental laws and safeguarding community welfare.

Indeed, these case studies show how important court rulings have been in determining corporate culpability for environmental harm in India. These judgments have emphasized the significance of strong regulatory frameworks and efficient enforcement of environmental laws by setting significant legal precedents and principles. In order to save the environment and public health, they stress how important it is to hold businesses responsible for their deeds and make sure they follow environmental regulations. These court actions support environmental justice and sustainability in India by acting as essential checks and balances.

IV.COMPARATIVE ANALYSIS OF CORPORATE LIABILITY FOR ENVIRONMENTAL HARM IN INDIA AND OTHER COUNTRIES:

Many countries have enacted laws to hold companies accountable for their environmental impact, making corporate accountability for environmental harm a major global issue.

⁵ 2(2019) 19 SCC 479.

Comparing India's corporate accountability for environmental effect to that of other countries can highlight areas for improvement as well as the benefits and drawbacks of different legal systems. Comparatively speaking, other countries have very different legal frameworks for holding corporations accountable for environmental damage. Common law serves as the foundation for corporate accountability for environmental harm, ideas and environmental laws in a number of countries, including the US, such as the Clean Water Act and the Clean Air Act. US law states that companies could face civil and fines, jail time, and criminal punishments for damaging the environment by their activities and for disregarding environmental regulations. Another important difference is the role that environmental organizations and civil society play in enforcing environmental laws. In India, civil society and environmental groups keep an eye out for environmental violations, report them, and have the legal right to file public interest litigation (PIL) cases against companies that cause environmental harm. Environmental and civil society organizations are crucial to the implementation of environmental legislation, even though other countries, such as the US, have legislative systems that permit more stringent government inspection and enforcement.

The effectiveness of corporate accountability for environmental harm is also influenced by the severity and extent of the penalties and fines imposed for breaking environmental regulations. The fact that environmental infractions in India usually entail lighter punishments and fines than those in other countries may lessen the deterrent effect of the legal system. The fact that environmental regulations are frequently not adequately enforced in India may further impair the effectiveness of the legal system. On the other hand, environmental regulations are typically more strictly enforced in the United States and several European countries, where environmental infractions carry harsher penalties and fines. This could serve as a more potent disincentive for companies engaging in environmentally risky activities.

V. Challenges and limitations

The existing regulatory framework lacks the necessary flexibility to address continuous non-compliance with environmental regulations, particularly in cases where violations do not immediately impact the environment severely. Punitive measures available for non-compliance have proven ineffective due to rigid procedures and inadequate penalties that fail to reflect the full economic and environmental consequences of the violations. State Pollution Control Boards (SPCBs) are grappling with significant resource constraints in handling citizen complaints, with some states receiving over a thousand complaints annually. Additionally,

citizens' access to environmental information, ensured by the Right to Information Act, is hindered. PCBs frequently lack the means to compile the information that is available or can be reluctant to make some data—such as consent applications, permissions, and inspection reports—public. In addition to adding to the workload of State Pollution Control Boards (SPCBs), regulatory constraints on the use of self-monitoring data as evidence in court cases deter businesses from carrying out proper self-monitoring and reporting. Permitting, monitoring, and inspection operations are overemphasized in the industry, especially in larger companies, which restricts regulatory programs to a major but non-dominant source of pollution. This ignores the significant cumulative pollution consequences from transportation, agriculture, municipal sources, and small and medium-sized enterprises (SMEs), which together account for around 70% of industrial pollution.

Staff members of the SPCB devote an excessive amount of their time to issuing consents, frequently with irrationally short validity periods, at the detriment of their duties related to compliance monitoring and enforcement.

VI. Conclusion:

Economic tools are used as supplemental methods to encourage environmental compliance in India. These tools cover a range of tactics, including bank guarantees, water cess rebates, subsidies for pollution control technology, and other financial incentives. The Indian Supreme Court and a number of High Courts have led the way in environmental law enforcement over the last 20 years through citizen-initiated. The constitutional right to a healthy environment serves as the foundation for public interest litigation (PIL). Courts have ordered specific implementation steps as a result of this judicial activism, which not only addresses individual cases but also creates new policies and practices that have broad ramifications for regulatory bodies and regulated firms. PCBs carry out a number of initiatives to support industry compliance, including: offering technical support and training; creating reports tailored to a particular industry that highlight concerns, compliance status, and preventive/control options; disseminating the corporate responsibility for environmental protection charter to the 17 groups of highly polluting industries, promoting voluntary compliance above and beyond regulatory requirements; and starting awareness campaigns. The state officials' attempts to implement these policies are praiseworthy. It should be emphasized that the responsibility mechanism is inextricably related to other essential instruments for stopping and dealing with environmental harm, such as administrative and criminal laws.

Administrative financial sanctions, like fines, have the potential to be used more frequently in place of criminal prosecution. Therefore, striking the right balance between civil, administrative, and criminal enforcement actions is crucial in order to create a synergistic relationship where these different tools successfully support one another. Dr. Michael G. Faure, Department for Citizens' Rights and Constitutional Affairs, Environmental Liability of Companies Policy.

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