

Constitution of India and Environmental Governance Administrative and Adjudicatory

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Lecture 19

Powers and Functions of Various Authorities - II

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- **3. CONSENT:** (S.25 WA & S.21 AA):- #APPLICATION:(cl.1)- #NEW OUTLETS; #NEW DISCHARGES; # PROVISO: EXISTING ONES—(WITH IN) 3 MONTHS #PROCEDURAL FORMALITIES—INQUIRY(cl.2 &3)#GRANT: - - CONDITIONAL (cls.4&5 WA and cls.4,5,6 AA); DEEMED(proviso to cl.1 and cl.7 of WA,- although not expressly stated in AA, can be inferred from a reading of the proviso to cl.2, and cls.4 and7 of AA); S.27 #REFUSAL/WITHDRAWAL/CANCELLATION:(S.27 OF WA AND PROVISOS TO (S.21(4) OF AA)
- **4.SETTING STDs:-**Ss.16 &17 WA &WA- **DISCUSSED IN THE LECTURE ON ENVIRONMENT PROTECTION ACT**
- **NOISE POLLUTION:-**
- **NOISE POLLUTION(Regulation & Control) RULES, 14 feb.2000-**
- **2 TYPES OF STDs.:**
- **1.AMBIENT AIR QUALITY STDs.-** for industries,commercial areas and residence-'Silence Zones';)



The other important provision is setting standards and working on these standards. Recall, the discussion that we had in the lecture on Environmental Protection Act, the same provisions are here and you know very well centre makes the standards, the states would implement that, there are certain conditions for implementation of that. And one such condition is that you can come up with a stricter standard at the state level and enforce it or you can just adopt the standards laid down by the centre and operationalize it through your rules here frame from time to time by you.

After the making of the Environment Protection Act, an amending amendment was made to Air Act and that is to extend air pollution to noise pollution as well, it was a wonderful provision. And based upon these rules were made under the Environment Protection Act in the year 2000. Noise pollution regulation and control of rules, 14th February 2000. What does it contain? There are two types of standards that are described. One is what is called as Ambient air quality standards. These are the standards prescribed for industries, commercial areas and residential areas, there are what are called Silence zones. This is where exactly this

is operative.

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2.EMISSION LIMITS FOR DESIGNATED TYPES;- (machinery, appliances and fire crackers --restrictions on use of loud speakers and public address systems- Dist. Magistrates and Police Commissioners to ensure that noise levels do not exceed the norms --READ WITH POLICE ACT; IPC; MOTOR VEHICLES ACT; LOCAL SELF-GOVT. LAWS --1987 AMENDMENTS TO AIR ACT, EXTENDED THE APPLN. OF THE LAW TO NOISE POLLUTION- EXTENDED DEFN. TO AIR POLLUTION.

CASE LAW: # Dr. Y.T.Oke v. St. of Maharashtra (1995):

HIGH NOISE LEVELS & THEIR IMPACT ON HUMAN HEALTH-Justice SUJATA MANOHAR'S ORDERS-CONSTN. OF EXPERT COMMITTEE & ITS RECOMMENDATIONS- NO SATISFACTORY ACTION TAKEN-SECOND PETITION- PRESCRIPTION OF LEVELS BY STATE(-LOUD SPEAKER RULES), CONTRARY TO NATL. AMBIENT AIR QUALITY LEVELS- NAVRATHRI & GANESH FESTIVALS- PROHIBITION OF USE OF LOUD SPEAKERS BEYOND 1130 PM – REFERENCE



And the second one is emission limits for designated types. The decibel level should be of a particular level. In case of missionaries, what are the simple levels, in case appliances, in case of fire crackers, restrictions on use of loudspeakers and public address systems, all these are made in fairly greater detail in the rules that are made under this, and everyone need have to confirm to it. It is a very interesting law, and if you examine this law, it actually is an enabling law. And by just reading this law, you will not know how to implement this law.

Actually, if you look at the law concerning nuisance I mentioned earlier, it is the district magistrate who has the final decision making power with regard to that and it is the police officers who have the duty to deal with the issues of noise pollution in various public places and so, this law has to be read with the Police Act, the Indian Penal Code, Motor Vehicles Act, local self-government laws and mere reading of the amendment to the Air Act, and extension of the application of this law is not possible unless and until you put all of them together and thereby you have an extended definition of air pollution.

The long and short of it is, the real enforcer of the law concerning noise pollution is the General Administration, the police authorities and the District Magistrate, whom you call as the Executive Magistrate, but the technical support in determining what amounts to noise pollution comes from the state Pollution Control Board under the power that has been vested in them.

So, supposing the police authorities do not act, the pollution control board can instruct the

police authorities, “Look the particular limit that has been prescribed for such and such an entity has been exceeded and it is affecting the public peace and so, you should act on that”. It can give instructions to them.

That means, the pollution control board cannot directly act, but it will act through this particular authority. And if this particular authority does not comply with what the pollution control board instructs, then the pollution control board can proceed against them and take action against them for having violated this law. So, looking at the function of the pollution control board, it can act against an industry, a private entity, it can act against an individual, it can act anyone who is violating this law, it can act against a governmental agency created any law when noise pollution issues are involved.

Very broad spectrum of activities, a very broad spectrum of authorities was brought under the pale and purview of the pollution control laws here. There are very interesting cases here on this and it is very necessary that we take a peek into some of these cases because the evolution of the law concerning noise pollution, the rules I had mentioned, came into existence only in the year 2000.

Although in 1987, air pollution also included noise pollution, but the details of setting standards, prescribing the decibel levels and the determination of exceeding standards were not worked out. And so by and large, the police and other authorities were relying upon their respective laws, Motor Vehicles Act, the Police Act, whatever they prescribed, and they from that.

And even the pollution control board, their hands are tied. They did not know what to do anyway, the other agencies acting, we did not do anything about it, they were keeping quiet. But in the year 2000 these rules came, which made it very clear the role, responsibility and function of every authority as to how they should act, whenever there is noise pollution, and what kind of measure that they have to take and how to control that to maintain the public peace and public order.

This happened mainly because of a number of decisions given by the higher judiciary, which took note of this particular problem not being addressed very clearly by administration. And so, it gave directions to administration, it gave directions to the government, enact those laws,

come with details of procedures, please take action because the public health and public wellbeing and public peace is at stake. The quality of life is getting affected. How did that happen? 2-3 cases.

Let me start with the case of Y.T Oke. He is a doctor by profession and a doctor notice that this is in the State of Maharashtra. Activities that were going around in this clinic, like the vehicular movements, the industrial activity was providing so much of noise as to make it unbearable for the people and nobody was really caring about taking action on that.

And so he went and submitted before the High Court there, a writ petition that high noise levels as a doctor I have noticed is impacting on human health, it is a public interest and I bringing in this public interest litigation. I do not know about the law, but there has to be some kind of an action taken, governmental agencies are not really doing anything, kindly help.

And the chief justice, then Justice Sujata Manohar, laid down wonderful orders and these orders were essentially based on an expert committee that was constituted, which came with its findings. And those recommendations were actually made part of the judgment here, and all that you find here is that in case of hospitals, what you should do, in case of those silent zones, where schools and college and educational institutions are there.

Wherever residential areas are there, when there is a religious function that is going on, what kind of safeguard measures that should be there. All these were part of the recommendations of this expert committee and that became part of the law later. And then once this was done, and the law came to force then no satisfactory action was taken, a second petition was made by him.

And rules for loudspeaker were made by the state government. And they found that these rules that were made were contrary to the National Air Ambient Quality levels. And this is actually violated during Navratri and Ganesha festivals and whatever prescription as to the use of loudspeakers beyond level 30 are not followed.

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MADE TO St. of Bombay v. Narasu Appa Mali (1952 BOM. -distinction between religious faith & belief and religious practices-what the state protects is religious faith & belief- good of the people of the state as a whole would take precedence over and over rides such religious practices that run counter to public order, morality, health or a policy of social welfare)

#P.A.Jacob v. Supdt. of Police, (1993 KER.):

FUND. RT. TO SPEECH & EXPRESSION NOT TO INCLUDE RT. OF USE OF LOUD SPEAKERS (-Justice Sankaran's observations: "rt. to be left alone"; "fr. from aural aggression"; "unlimited aural aggression on unwilling listeners", is like subjugating rt. to life to such aggressions)- REASONABLE USE OF LOUD SPEAKERS PERMITTED (- public meetings to denounce the practice of Church Orthodoxy)

Rabin Mukherjee v. St. of WB (1985 CAL.)- IMPOSITION OF RESTRICTIONS ON THE NUISANCE OF USE OF NOISY ELECTRIC AND AIR HORNS IN BUSES AND TRUCKS



The High Court observed in this particular judgement of it that this is a very sorry state of affairs. Some 45 years back, there is a supreme court judgment, which makes it a very clear distinction between people observing certain kinds of faith, religious faith and belief and religious practices, we are not going to question that.

But what the state should protect under the Constitution is the religious faith and belief, the good of the state as a whole would take precedence over and overrides the practices related to religious faith. Such practices, which run counter the public order, public morality, public health, or policy of social welfare is not something that should be tolerated by the state and high level of noise pollution, on account of a particular religious practice is intolerable.

The state shall not protect that because it affects public interest. Religious faith, we will respect that, religious belief you shall not question, but religious practice of this kind, which is pernicious and affecting public health should be stopped. And state should take action on that, you have laws of that. Please implement those laws, that is what the court instructed the government. Now, we have another case coming from Kerala, very similar case. And here the argument was that in a public place, there was a political meeting at the public place, a political leader was making a big speech, very loud noise.

The neighbouring people were affected by that, they brought in a PIL. Look how these regulations and there are certain limitations on loudspeakers use beyond 50 meters, it should not really spill into the public place and affect the wellbeing of the people. That is what have

been prescribed and still the thing being observed kindly have, that is the case of P. A. Jacob who was the Superintendent the police. And this is about certain religious practices, this is about certain political meetings, this is about certain celebrations that were taking place in public place with loud noise.

And there was a very interesting observation made by Justice Shanker. He said, that when we talk of fundamental right to speech and expression, which is a fundamental right that everyone has a right to express oneself, it does not mean that you have a right to use loudspeakers.

If you want to use loudspeakers, follow the rules prescribed therein and people beyond a particular limit of the use of these loud speakers have also a similar right to be left alone, they should be free, they should have freedom from oral aggression, unlimited oral aggression or unwilling business is like subjugating right to life to such aggression. And so, reasonable use of loud speakers should be permitted. And even if certain practices are opted by the church orthodoxy for which you make a public speech, fine, provided it is not going to really affect public health, the public morality and right to be left alone.

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- TRIGGERED, A VARIETY OF REGULATORY MEASURES BOTH BY CTS..ADMN. AND LAW MAKERS-CONCERN FOR EDN., EXAMS; RESTRICTIONS AS TO DURATION etc.,;
- *Maulana Mufti Syed Barkati v. St. of WB (1999 CAL.)*;
- (-Divn. Bench headed by Justice Banerjee)— STATE RESTRICTION ON USE OF LOUD SPEAKERS BETWEEN 9 PM & 7 AM, ASSAILED AS VIOLATING FR TO Fr. OF RELIGION(- argument:Azan, an integral aspect of Islam required to be called 5 times a day, could reach the believers of Islam only through loud speakers)-REPELLED BY HOLDING THAT THE USE OF LOUD SPEAKERS WAS A TECHNOLOGICAL DEVELOPMENT & NOT PART OF ISLAM
- MOTOR VEHICULAR POLLUTION: - -POWER OF THE SPCB TO LAY DOWN STDs. FOR EMISSIONS OF AIR POLLUTANTS INTO ATMOSPHERE FROM INDUSTRIAL PLANTS AND AUTOMOBILES, IN CONSULTATION WITH AND HAVING REGARD TO STDs. SET BY CPCB ...[S.17(g) AA] - ST. GOVT., IN CONSULTATION WITH AND TO ENSURE THE STDs. SET BY SPCB ARE COMPLIED WITH, TO ISSUE NECESSARY INSTRUCTIONS TO THE MOTOR VEHICLES REGISTERING AUTHORITY AND OTHER AUTHORITIES-OVERRIDING EFFECT OF THIS LAW[S.20 AA]



Similarly, with regard to the use of air horns in buses and public transport system, there is another case decided by the Calcutta High Court. I have mentioned that case, please refer to that, limitations were imposed on that. And this is yet another case decided by the Calcutta

High Court, which says the state restricts the use of loudspeakers between 9pm and 7am, this is in Calcutta, or Kolkata now.

And the claim of this particular religious faith that every day, a number of times, there is an azan, where there is a call for the believers to assemble and then pray. And azan is an integral aspect of Islam, it is required to be called five times a day. And it can reach the believers of Islam only through loudspeakers and it should be permitted.

And that was actually called into question in the Maulana Mufti Syed Barkati verses state of West Bengal as early as in 1999. We are referring to the case in 2020 because you see the violations occurring even now. What did the court say here? This is exactly what the court said. You have a right to religion, a fundamental right, you have a freedom of speech, which is a fundamental right, but your argument cannot be upheld because the using of the loudspeakers is a technological development and it is not part of Islam.

You follow Islamic practices, but Islam does not promote use of loudspeakers. How you reach your believers it is your lookout, but in your enthusiasm in reaching your believers or the believers of your faith, it should not in any way affect similar such a right not to believe your faith by so many other people, their right would be infringed upon.

Your right ends when the right of others begin, and Islam does not promote use of loudspeakers. I do not think the court of law can be much clearer than this and noise pollution laws are very robust laws, but the only problem with regard to bypass pollution control is it requires very many authorities to deal with this problem situation.

And the pollution control board is supposed to provide the technical support for ensuring these standards are maintained and observed, the police and the general administration need to act every time when there is a complaint. But there is no question of using a discretion beyond the limit that has been prescribed out of this law but most of the time it has not been observed.

And if you ask about the legal prescription, if you ask about judicial clarification, they are very clearly there, the only need is to implement. There is a need for implementation, for that you do not need a political will, you need an administrative will to ensure that every law

made under the law of the land should be implemented and others needed to comply. And if there is any deviation, to take action without any license or concession.

More concessions you give, you are actually acting arbitrarily that is a sum and substance of this. Motor Vehicle pollution is another area, a vastly unregulated activity for a pretty long period of time. And you know, of the pollution that is caused in urban areas especially, more than 60 percent of air pollution is caused by motor vehicles.

And unfortunately, the Pollution Control Regime did not really provide for standards of motor vehicle pollution for a pretty long period of time. The Air Act came into existence in 1981, there were no regulations and in 1984 the central Pollution Control Board constituted a committee to do a few research work and come up with a recommendation.

And some kind of a general standard was laid down but they were not very satisfactory. They were not very satisfactory for the simple reason that the standards that were prescribed, falling upon a bit of a consultation and those exercises that were carried out by Central Pollution Control Board was actually a set of standards prescribed, which had only what has been suggested by the motor vehicle automobile industry. And the industry will always come up with those terms and conditions which would actually satisfy and ensure them to do the ease of business not bothering about whether it confirms to some standards or anything like that scientifically arrived.

And everything worked out, according to both the government, people and the industry. But people were finding it very difficult that this kind of a concession that has been given, a standard which was just there for namesake, which did not really satisfy the public good, or for that matter, follow any scientific requirement became a subject matter of a major Supreme Court case that was decided by the Supreme Court over a period of time, for nearly 30 years this was actually the concern of the Supreme Court, it made its appearance for the first time in 1991.

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---STDS. FOR CONTROLLING EMISSIONS LEVELS OF NEW VEHICLES WERE INCORPORATED INTO MVA(1989), AS LATE AS IN 1991-BIS, INCORPORATED EMISSION PARAMETERS DURING THE SAME PERIOD-THESE WERE DONE AS PER THE TERMS & CONDITIONS SET BY THE MANUFACTURERS!

CASE LAW :M.C. Mehta V. Union of India (1991, SC) -Evolution of the case - Committees and Reports - Administrative Delays and poor response from Industry -political Gimmicks -Role of Media and popular perceptions - Role of Research Institutions – each in their own way, contributing to the confusion – SUPREME COURT'S INTERVENTION AND ITS CONTRIBUTION TO THE JURISPRUDENCE ON THE SUBJECT - ISSUED ORDERS ON A WIDE VARIETY OF ISSUES – Emission Standards ; Engine Designs; Fuel Quality; Retiring & phasing out old vehicles etc.,)- Policy, legal & administrative reforms- Bharath III & IV Stds. evolved



Right from 1980s when MC Mehta brought in his action and what the Supreme Court did, a number of expert committees were constituted, and each of those times, the Supreme Court came up with a number of orders, asking about the administration to act on it. There were delays in acting and that there was poor response from the industry, there was a lot of political gimmick about that. And most of it is business as usual, kind of a thing each in their own way, contributing the confusion of vehicular pollution, and Supreme Court said, enough is enough.

And it started coming up with a number of expert committees, coming up with a set of recommendations based upon which it started prescribing norms and conditions for compliance by everyone, It was an instruction to the policymaker that was an instruction to the lawmaker, it was an instruction to the industry to ensure that people could breathe easy going into the streets. They came up with emission standards. They came up with engine designs, they came up with fuel quality, they came up with norms for retiring and phasing out motor vehicles, etc.

One may have a question, why did the court come up with policy, legal and administrative reformative measures? For the obvious reason that the administration did not act, the lawmaker did not do anything. And those expert bodies like the pollution control board, as I have mentioned earlier, were only following whatever the automobile industry wanted. It is almost like the one who is accused, coming up with framing of rules and that is being implemented by the enforcement agency, which was a highly unsatisfactory state of affairs. And so, the court had to come up with that.

It primarily adopted the standards adopted in Europe, the Euro 3 and Euro 4 standards, and these standards were later read into the rules prescribed under the Environmental Protection Act and they came as Bharat 3 and Bharat 4 standards. And these were evolved mainly because of the intervention of the court of law, with regards to vehicular pollution.

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- **5. POWER TO INITIATE LEGAL PROCEEDINGS: A. POWER TO APPLY TO COURTS. (33 WA & S.22-A AA):- APPLN. TO CT. BY PCB IN APPREHENSION OF EFFLUENTS /EMISSION DISCHARGE IN EXCESS OF STDs. LAID DOWN -**
-CT.MAY MAKE ANY ORDER DEEMED NECESSARY, INCLUDING ORDERS OF- RESTRAINT & REMOVAL - UPON NON-COMPLIANCE, AUTHORISATION TO BOARD TO IMPLEMENT ITS DIRECTIONS & RECOVER COSTS
- **CASE LAW:**
- **1.PONDICHERY PAPERS LTD. v.CPCB (Madras 1980):-INJUNCTIVE RELIEF(- RESTRAINT ON CO. FROM DISCHARGING EFFLUENTS UNTIL CONSTRUCTION OF A WATER TREATMENT PLANT)-CHALLENGED BEFORE HC ON THE GROUND THAT THE MAGISTRATE DID NOT HAVE THE POWER TO U/S 33 TO ORDER COMPLIANCE WITH A CONSENT ORDER- DECN. UPHOLDED(-'SOCL. WELFARE LAW'; 'IMPLIED POWERS ' OF THE CT.)**



The other function that is being made available for the pollution control boards is the power to initiate legal proceedings. You know that, as has been mentioned earlier under the Environment Protection Act, and also under these two laws, courts of law have no jurisdiction to deal with pollution control issues at the district court level.

High Court and Supreme Court as a public interest litigation can take it up but the lower courts have no jurisdiction, there is a clear bar in jurisdiction. But court can come into play only under two circumstances, one is when the pollution control board itself makes an application. And second, when an ordinary member the public comes up with a case before that.

We have already discussed that in the Environment Protection Act, the same is a law made here. And just to mention, to recall, whatever that has been discussed, the pollution control board can make an application to the court either in apprehension of a polluting activity or when actually a pollution has occurred, because of the conduct of certain individuals or industry and anybody, and the court may pass any order deemed necessary, including orders for restraint or removal, this is called as an injunctive order. Upon non-compliance, the board is authorized to implement its directions and recover the costs.

That is a very important power but as a matter of fact, I have referred to a few cases, it is very simple. And the reason why I am not going into the details, this is like something that is a reading and a homework that the student will have to do, read these cases and you will know

as to what exactly is the importance of this law.

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- **2.AGGARWAL TEXTILES INDUSTRIES v.STATE OF RAJASTHAN (1981)-**
LOWER CTs. ORDER OF RESTRAINT AGAINST TEXTILE COs. FOR
DISCHARGING EFFLUENTS AFTER THE EXPIRY OF CONSENT ORDERS FROM
STATE & CENTRAL BOARDS-CONSTITUTIONAL CHALLENGE(- VIOLATIVE
OF ART.19(1) (g))-HELD, RESTRAINT A REASONABLE RESTRICTION -
RATIONALE, UTILITY AND ANY ENDURING VALUE OF CONTINUATION OF
THE PROVISION , IN THE LIGHT OF S.33A & S.31A OF WA & AA
RESPECTIVELY- DEBATABLE
- B.BAR ON JDN.(S.58 WA ,S.46 AA, S.22 EPA)- EXISTENCE OF IN-BUILT**
APPELLATE MECHANISM IN WATER & AIR ACTS-NO SUCH MECHANISM
UNDER EPA--TOTAL BAR OF JDN. OF CTs. UNDER EPA
- #APPEALS (S.28WA S.31AA):-APPEAL TO BE SOUGHT WITH IN 30 DAYS,**
AGAINST THE CONSENT ORDERS(Ss.25,26 AND 27) OF THE BOARD UNDER
WA AND AGAINST ANY ORDER OF THE BOARD UNDER AA - NO SCOPE FOR
APPEALS UNDER EPA



To put it in a nutshell, there cannot be a claim by anyone that I can carry out any trade or a profession or an industrial activity, which is a fundamental right of me, that can be done only when it does not violate anybody else's right to life of everybody, is very precious and it should not come in the way of right to life.

And second, it should not violate any of the provisions of Environmental Protection Act or the pollution control regime that we have discussed so far. And conforming to them is like observing legal prescriptions, which is a reasonable restraint on your fundamental right to carry on any trade or calling. And so, you cannot challenge the action of the authorities as being violative of fundamental right, and it is not violation of the Constitution.

In fact, it is very much within the reasonable restrictions permitted under this law. To put it in very simple terms, this is a very simple power that is vested in the pollution control boards of applying to the court for action. This is a power all right, but far more serious power is available for more effective power available for the pollution control board under Section 33A and 31A of Water Act and Air Act respectively, as has been discussed a little while back, actually issuing orders.

You need not to go to court, get an order from the court and act on it. You as a quasi-judicial body when one you have noticed there is a clear violation of the law, like a court you can

decide and it is the duty of the one against whom the orders issue, he should act. So, given the kind of power that of a court, why should you apply to a court? There are several arguments that we had to retain a particular provision.

And there was an argument that they need to retain the provision, the argument that you do not need to retain the provision of applying to the court, because you have a higher power of you, yourself issuing an order, just like that of a court of law and so that rule is unnecessary. But the argument of the other side is, that those rules are also necessary, because many a time if you draw the attention of the court of law, it will add a little bit more gravitas, strength to the action that you initiate. And so, the court action and this passage, judicial power exercised by this authority would have a far deeper impact and so we should retain both the provisions.

As far as the decision of the pollution control board is concerned, there is only one provision, which can be appealed against and that is within 30 days of the order against the consent order. All other orders of the board are unappealable because that is like the order of a court of law, but within 30 days the appeal has to be made. Appeal to who?

Appeal has to be made to an appellate authority. Normally, in every state, the state government appoints an appellate authority to hear grievances and disputes that anybody would have against a Pollution Control Board and to that appellate authority, the grievance needs to be submitted and it will decide.

And wherever such an appellate body is there, and this appeal can be sought, the government cannot intervene but when there is other provision, some decision is taken by the board and there is no scope for an appeal other than the consent order, standards not being confirmed or anything like that, or that there is a power of revision vested in the state government, which I mentioned earlier, the state government can revise the order of the pollution control board, if there is no appeal sought or an appellate authority is there and no appeal has been made. The decision of the pollution control board in such situations becomes final and binding.

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-RELIEF IN THE EVENT OF STATE GOVT. NOT CONSTITUTING AN APPELLATE AUTHORITY - REVISION (S.29 WA):-ST. GOVT.'S POWER TO CALL FOR RECORDS OF ANY CASE, AT ANY TIME, ON ITS OWN OR WHEN A REVISION APPLN. MADE TO IT, UPON AN ORDER OF THE ST. BOARD(-U/Ss.25,26 & 27- ORDERS CONCERNING CONSENT) AND, AFTER ACCORDING A REASONABLE OPPORTUNITY OF BEING HEARD, PASS ANY ORDER IT DEEMS FIT -NO REVISION WHERE AN APPEAL IS PREFERRED BEFORE AN APPELLATE AUTHORITY (- OR, WHEN SCOPE FOR APPEAL EXISTS AND NOT PREFERRED)- NO COMPARABLE PROVISION UNDER AA

C. COGNIZANCE OF OFFENCES(S49 WA, S.43AA & S.19 EPA) AND

D. ENVIRONMENTAL CRIMINAL LIABILITY OF CORPORATE MANAGERS & HEADS OF DEPTS. (S.47,48 WA; S.40,41 AA)- DISCUSSED IN THE LECTURE ON EPA

➤ **QUITE A ROBUST LAW WITH RE-INFORCEMENTS PROVIDED BY BY EPA**



So, in effect, what we are referring to, a very robust law that gets reinforced with the making of Environment Protection Act and the rules thereunder from time to time the pollution control board is armed with more powers, more functions to discharge. And if there is still a problem of pollution and a problem is getting exacerbated over a period of time.

Now, you know that the problem does not lie in what is there in the letter and spirit of the law. Enough power has been vested, enough functions are being given, enough rational for actions are given, even judicial powers are vested in authority. And if results are not to be seen, I think there must be some problem with regard to compliance. There must be some problem with regard to the way and the manner of implementing these regulations.

There are provisions with regard to environmental criminal liability of corporate managers and heads of departments. It is the same as what has been there out of the Environment Protection Act that was discussed in the lecture on Environment Protection Act. This comes to a close detailed discussion on the entire law concerning Environment Protection Act, the law for protecting the environment and the law in dealing with pollution control.

The general law concerning environmental protection and a very specialized law with specialist enforcing that the pollution control regime comprising of the Water Prevention and Control of Pollution Act and environment protect and Air Prevention and Control of Pollution Act, all enforced by the pollution control board further strengthened by the additional tools and techniques that are provided under the Environment Protection Act.

With this, we have laid down the ground for taking it to the next level of our inquiry that having discussed about the pollution control law, what is the law and its working with regards to certain sectors of pollution and waste management on environmental protection and economic development on taking care of some sensitive areas under management, what does the law say?

And how it is being worked on those specialized areas where life and life forms needed to be conserved and protected and that becomes a subject matter of inquiry in the subsequent modules that we are going to get into. And that will be the discussion that we will be engaged in.