

Constitution of India and Environmental Governance:

Administrative and Adjudicatory Process

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Lecture No. 55

Accessing and Securing Environmental Justice within the Statutory Framework

Having acquainted ourselves with the environmental justice delivery system prevalent in the Indian legal system, we move on to a very important and a concluding segment of our enquiry on the subject. It has been an effort so far on our part to look into what the formal justice delivery system and the special courts and tribunals that have been established for the purpose of rendering justice have been brought into existence and how they have been performing.

They had different kinds of experiences on that. We have been witnesses to that and we examined them. We now turn to the last segment of our enquiry in modules 10 and 11, environment justice delivery and dispensation system. And that is access and secure justice within the environmental statutory frame.

So, we return to the very laws that have created institutions of enforcement of environmental laws To probe the scope and the space available for justice delivery from within the system, rather than and as has been done so far, of looking to independent justice delivery system, of integrating regulation with justice delivery, what is the brand of that which is available in the Indian legal system within the legal frame that we have within the administrative and enforcement mechanisms that we have. That is our focus of attention now. Let us begin.

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I. Quasi-Judicial Function of Environmental Administration



- ENVIRONMENTAL LEGISLATIONS HAVE QUITE AN UNIQUE FEEL ABOUT THEM, IN BEING BOTH REGULATORY AND ADJUDICATORY INSTRUMENTS- THE DESIGNATED AUTHORITY PERFORMS BOTH THE FUNCTIONS OF ADMINISTRATION AND ADJUDICATION
- SPACE AND SCOPE FOR SEEKING AND SECURING JUSTICE FROM THESE BODIES AND FROM PRIMARY JUDICIARY, BUILT-IN TO THEIR STATUTORY FUNCTIONS
- A FEW ILLUSTRATIVE EXAMPLES:
 - I. UNDER EPA & POLLUTION CONTROL LAWS:-
 - (a) S. 19(EPA); S. 49(WA); S. 43(AA)- (i) CITIZEN'S SUIT: COMPLAINT OVER AN ALLEGED OFFENCE TO CG/SPCB- LAPSE OF 60 DAYS – COMPLAINT TO DIST. COURT; (ii) CG/SPCB, COMPLAINT TO DIST. CT.
 - (b) POWER TO GIVE DIRECTIONS TO ANY PERSON, OFFICER OR AUTHORITY-



A panoramic view of all the laws concerning the environment that we have in India, they have a unique feign by being both regulatory and adjudicatory in nature, in character, in functioning. The designated authority as we have observed, the pollution control, forest management and any other function of enforcing the law have this quintessential element of performing both the functions of administration and adjudication. It is such a wonderful experience to have a look at them.

The law, that a space and scope for seeking and securing justice, from these bodies and even from the primary judiciary build into the very statutory frame and their functions. Here is an effort to illuminate them with a few illustrative examples. Let us start with the Environment Protection Act and the Pollution Control Laws that we have. Please recall the module in which we discuss this and it should become easier for you to recall what is that I am referring to right now.

You have specific provisions in Water Act, Air Act and Environment Protection Act, I have referred to the provision right here in the slide. Provision for a citizen's suit. How, I as an ordinary member of the public can seek and secure environmental justice? We are already familiar in our discussion there that I as a member of the ordinary public, I can complain to the authorities over an alleged offense. Either to a central government authority, if CPCB is in charge of that as it happens in the case of Union Territories or the State Pollution Control Board.

The complaint of something annoying, something disturbing, something distressing which would affect my environment happening around me. And that is the complaint that I have. I just do not have any means or mechanism to know whether whatever I claim as a new sensible thing is within the standards prescribed in law or beyond. I am not a technical person, but I just simply submit a complaint. And complaint is kind of a notice to the authorities. It is incumbent on the authority that within 60 days' time of my complaint or the notice, need have to act.

And then, resolve or deal with my complaint. How it deals with the complaint, what he does is one aspect of it. The other aspect is my right is still alive, my right to complaint is over and I have given due notice to the authority that you should act in about 60 days' time to satisfy me and if I am not satisfied even when the authority has acted in a particular way which is considered most appropriate to it and still the problem has not really got resolved for me, according to me, I still have my right intact of next going to that District Court to complain.

And the District Court which till now did not have any jurisdiction with this particular case, remember that under these laws courts have no jurisdiction, but the jurisdictional gate gets open after the laps of this 60 days' time when I follow this particular procedure, I can complaint to the District Court and without much I do, the District Court can require the Pollution Control Board to carry on a number of things including enquiring with them as to what to kind of measures are taken and issue order in relation to that.

So, this is one very important provision that you have. In addition, of course, we have the power or the function of the Pollution Control Board to bring in action before the District Court if it is so desires, but that is a different issue. I as an ordinary member of the public bringing in action in a court of law on my own, without anybody's assistance, without any formal kind of a petition to be submitted. All that I need I have to do is follow this procedure, then lodge a complaint to the District Court and actions would follow.

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-DUTY TO COMPLY WITH THE DIRECTIONS, FAILURE TO CONFORM- LIABLE FOR PUNISHMENT – S.56A;S.33-A(WA); S.31-A(AA)

(c). S.28 WA: GRIEVENCE REDRESSAL BEFORE APPELLATE AUTHORITY

(d). S.28WA: STATE GOVT.'s POWER OF REVISION OF THE ORDERS OF SPCB, EITHER ON ITS OWN OR UPON AN APPLICATION BY THE AGGRIEVED

2.BDA, 2002:

(a) NBA 's POWER TO ADJUDICATE UPON DISPUTES BETWEEN SBAs AND SETTLE THEM(S.50(4,5,6,7))

(b) EVERY DETERMINATION OF BENEFIT SHARING OR ORDER MADE BY NBA OR SBB SHALL BE DEEMED TO BE A DECREE OF THE CIVIL COURT AND EXECUTABLE IN THE SAME MANNER AS A DECREE OF THAT COURT

(c) CONTRAVENTION OF ANY DIRECTION ISSUED OR ORDER PASSED BY NBA/SBB- A PUNISHABLE OFFENCE (S.56)



The second one under this law is a very powerful weapon that is in the hands of the Pollution Control Board. As we had seen, the power to give directions to any person, officer or authority and the authority to whom this Pollution Control Board issues these directions, orders, gives directions to, has the duty to comply with these directions. Any failure in conforming to that, that person, that entity, that authority will be liable for punishment under the Environment Protection Act, Water Act, Air Act as the case maybe.

What does that mean? It simply means that I as the Pollution Control Board act as a judge in order to pursue and realise the objectives of the law and in discharge of my functions, if I need anybody's assistance, if I need anybody's support, if I need anybody to do certain things so that I carry out my functions satisfactorily, I can issue directions, these directions are like a court order. So, look at the status of the Pollution Control Board. It acts as a judge here and it is incumbent on the one to whom the directions are issued to conform to that.

We have already seen in that particular module as to what kind of range of powers that the Pollution Control Board has. It can issue directions to the municipal commissioner, it can issue directions to the industry commissioner or any other governmental agency in order to ensure that the pollution over which certain actions are required to be taken or commanded to be taken through this particular agency and even if these authorities not created under this law, the overarching nature of the law is such that the directions can be issued to an authority created in another law who has a duty to comply. And if they do not, penal sanction would visit them just like a court order.

The third situation is under the Pollution Control Law, especially the Water Act, there is the first level of appeal provided for, decisions are made by the Pollution Control Board, you want to go up and appeal against that and the courts are barred from taking action because I cannot appeal against an order to a court. Then what? Then in that event there are opportunities available for me.

One opportunity is that under this law, there is a provision for the creation of an appellate authority by the government. So, the state government if it has appointed an appellate authority for this purpose, its job is to hear the grievances from the one who has been affected by a decision taken by the Pollution Control Board. So, that is the agency would act as a Quasi-judicial authority to sit in appeal over the orders and directions of the Pollution Control Board and decide an appeal. This is the third instance.

The fourth instance that you have for justice dispensation outside the court process or the formal process on justice delivery, but provided in the statutory prescription itself is the state itself acting as a judge, the state government itself acting as a judge, and the provision under the Water Act, which I given you has an example as you could see on the slide, the state government's power of revision of the orders of the state Pollution Control Board either on its own or upon an application by the aggrieved.

If there is an appellate authority and it is only to the appellate authority I can give my grievance, I can submit my grievance. But there is also a scope that I can submit my grievance to the state government to revise the orders of the Pollution Control Board so that my grievance is addressed. The state government and that is the extra-ordinary power a state government has. That even if I, as the aggrieved party does not go before the government with a complaint, with a request for revision, the government on its own suo motu, can call for the records from the Pollution Control Board without anybody making a request.

It is almost like an occasional check to see whether everything is an order or whenever the government feels that something need out to be done in a problem situation and for whatever reason, the aggrieved party is not in a position to come before the government to submit his grievance. In such a situation also, the state government can on its own call for records and order for suitable actions to be taken.

Look at the extra ordinary power. So, the government is not just an enforcement apparatus but it is also a judge in its own way. Justice dispensation outside the court process and as has been provided within the statute are even the government donning the mantle of a judge, revising orders, modifying the orders of the State Pollution Control Board. But there is one condition here, the condition is that if the one to whom the order has been issued and that entity after the receipt of the order is aggrieved and has certain appeal before the appellate authority constituted for that purpose.

Under this law, when the appellate authority is in charge of this particular complaint, grievance and is in the process of deciding on that or has already decided on that, such cases cannot be taken by the State Government. So, appellate authority, the final one, but if the appellate authority is not approached, state government has the power of doing revision of the orders of the State Pollution Control Board if and when felt and deemed a necessary by it. Well, these are a few examples from the pollution related laws under the Environment Protection Act.

Let us turn to the Biodiversity Act. Under the Bio-diversity Act, we have a body, a national body which has extra ordinary powers which other authorities do not normally have under any other law. I am referring to the first layer of governance, the National Bio-diversity Authority. What it can do?

When there is a dispute between the state bio--diversity boards, 2 or more state bio-diversity boards are not very clear, have a bit of a confusion, have a dispute or a conflict over access and sharing of benefits, of determining the quantum of share that one state board should get vis-à-vis the another state board should get if a particular entity is operating in more than one state and over which each state board wants to have a particular share and there is a dispute over that.

I am just giving an example. In such a case if these disputes are there between the state boards, who would resolve it? And it is the National Bio-diversity Authority. So, National Bio-diversity Authority would sit in judgement upon the conflict between 2 or more state bio-diversity boards and would adjudicate upon that dispute and it is binding on that.

Further, and you must note this, whatever orders that the National Bio-diversity Authority passes, whatever direction it gives, whatever instruction it comes up with, whatever determination that it has either on benefit sharing or directions, it issues on the working of this law to anybody.

And so is the case with the State Bio-Diversity Board. Every determination of benefit sharing or order made by the Bio-diversity Authority or the State Bio-diversity Board they are deemed to be a decree of the civil court and executable in the same manner as a decree of that court. Look at this situation, we are elevating the status of the National Bio-diversity Authority and that of the State Bio-diversity Board to be on par with that of a court of law, every order they issue is an order of that court, a decision of the court.

And if it is a decision of that court, it should have the same respect, same status of getting enforced as the judgement of a court of law. And so, it is quite obvious that in discharging this particular kind of a function, the National Bio-diversity Authority and the State Bio-diversity Board are judges. They dispense justice as part of their functions assigned to them under the law.

Look at this, contravention of any direction issued or order passed by the National Bio-diversity Authority or the State Bio-diversity Board are made a punishable offence. So, a punishable and a non-bailable offence, very strict law. At least there is some scope in the ordinary court process where there are certain exceptions. There are certain circumstances when you get a bail or anything like that. Here, it is a punishable offence, you cannot apply for bail, so powerful is the status of the Bio-diversity Authority and the Bio-diversity Board, they have a combined function of an administrator, a regulator and a judge all rolled into one. Let us move on.

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3. I.F.A: STATE GOVT. CAN INVEST ANY FOREST OFFICER WITH THE POWERS OF A CIVIL COURT, TO COMPEL THE ATTENDANCE OF WITNESSES AND FOR PRODUCTION OF DOCUMENTS AND MATERIAL OBJECTS; ISSUE A SEARCH WARRANT UNDER CPC, HOLD AN INQUIRY INTO FOREST OFFENCES, RECEIVE AND RECORD EVIDENCE S.72(b,c,d))

4. WLPA: (a) (-CH.VI): ELABORATE PROVISIONS EXIST, FOR THE ENTRY, SEARCH, ARREST AND DETENTION, BY "COMPETENT AUTHORITY" OF THE FOREST AND WILDLIFE DEPT., AND AUTHORISED OFFICERS OF POLICE DEPT., OF ANY PERSON, ON REASONABLE GROUNDS OF SUSPICION TO HAVE COMMITTED AN OFFENCE UNDER THE ACT. THIS INCLUDES THE POWER OF SEIZURE OF ANY PROPERTY RELATED TO THE ALLEGED OFFENCE
(b) JUDICIAL POWERS VESTED IN THE COMPETENT AUTHORITY THROUGH AN AMENDMENT TO THE ACT, IN 2003 (-CH.VIA): "THE COMPETENT AUTHORITY" CAN, WITH THE HELP OF AUTHORISED POLICE AUTHORITIES (-



Let us have a look at the Indian Forest Act. Here, the forest officer, an administrator in his own right, that we are are very familiar with. But there is also a scope for the state government by issuing a separate order to invest any forest officer with the powers of a civil court, because there may be a requirement that when the forest officer is carrying on certain investigations, making certain enquiries is on a fact finding machine which is part of his function, then may, he may need witnesses to attend and make deposition before him like as you do in a court of law or before an enquiry committee and a fact finding machine which is actually a judicial function.

But here under the law, there is a provision where by the forest officer can be given this kind of a power to compel the attendance of witnesses and for production of documents and material objects when required. This authority can issue a search warrant under the Civil Procedure Code, hold an enquiry into forest offences, receive and record evidence as a court would do. What more you require? Judicial functions as much as that of a court of law. This is exactly part of the routine function of a court of law and the forest officer maybe by an order of the state government be entrusted with this function as well.

So, let us not just think of forest officer as a mere administrator. He is also a judge and in pursuit of justice, he would discharge judicial functions. Another law, very closely related to the forest law, the Wildlife Protection Act and we already are familiar in that particular module as to what kind of a powerful law this is.

Especially the criminal sanctions that are there under this law which appears to be far more stringent than what you have under the Penal Law, Indian Penal Code or Criminal Procedure Code. Very difficult to escape once you are caught for an offense under this law, I did mention while discussing that.

So, when you have elaborate provisions for that of penal action far more stronger and stringent than what you have in the other kind of laws on such subjects, there has to be a provision, a very detailed one at that to help the Wildlife Authority to exercise that function as a judge would. To exercise the function as an investigator without any hindrance or without any hurdle, as a fact-finding authority to have all clear opportunities of accessing, securing information and carry on the exercise to meet to ends of justice.

One full chapter under the Wildlife Protection Act precisely provides for this, elaborate provisions exist for the entry, search, arrest and detention by a competent authority of the forest and wildlife department and authorised officers, please note, authorised officers of the police department. Against whom? Against any person on a reasonable ground of suspicion to have committed an offense under the Act. Who is that competent officer is described and how somebody becomes a competent officer is clearly described under the Wildlife Protection Act.

Suffice to say that a very higher ranked official of the wildlife department would be the competent authority who would be discharging all these functions. And what kind of additional powers this would include? The power of seizure of any property related to the alleged offence is also an integral aspect of the power of entry, search, arrest and detention by these authorities. So, suddenly you have under this law and quite rightly so because that is the nature, feel and texture of this law of the wildlife authority treated on par with a very high functionary of the police department.

So, policing function/ As to what kind of powers that they have when they have to investigate, when they have to do the searching, when they have to arrest, when they have to detain anybody and that power is vested as has been provided under this particular section, chapter under the Wildlife Protection Act.

The second instance of the kind of judicial powers displayed by the competent authority is a little recent entry into the law when the Act was passed in 1972. This provision was not there and this has been introduced in the year through an amendment in 2003 and this is a full chapter. Chapter 5, 6A, 6 capital A. And what does that provide for? It provides for the competent authority can with the help of authorised police authorities.

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BY MAKING A COMPLAINT AGAINST THE ALLEGED OFFENDER, TO THE SAME), GET THE ILLEGALLY ACQUIRED PROPERTY, IDENTIFIED, TRACKED, TRACED AND ORDERED TO BE SEIZED OR "FREEZED", PROVISIONS ARE ALSO MADE FOR THE AUTHORISED FOREST OFFICER, TO UNDERTAKE MEASURES FOR MANAGING PROPERTIES RECEIVED UPON SUCH SEIZURE OR FORFEITURE.

- THE COMPETENT AUTHORITY SHALL HAVE ALL THE POWERS OF A CIVIL COURT UNDER CPC, IN DISCHARGE OF THESE FUNCTIONS

(c) APPELLATE TRIBUNAL: (-S.58-N,58-O,58-Q,58-R)- IN-BUILT MECHANISM FOR GIREVANCE REDRESSAL PROVIDED UNDER THE ACT, BY THE COSTITUION OF AN APPELLATE TRIBUNAL - TO HEAR AND DECIDE ON APPEALS CONCERNING THE FORFEITED PROPERTY- IN DISCHARGE OF ITS FUNCTIONS, IT WOULD HAVE THE SAME STATUS OF A CIVIL COURT UNDER CPC- CIVIL COURTS ARE BARRED FROM EXERCISING JURISDICTION OVER APPEALS FROM THE ORDERS OF THE TRIBUNAL.



How does he get the help? By making the complaint to them, look here is an alleged offender, he is escaping, please take all such measures to get the illegally acquired property number 1, please help me by identifying, by tracking, by tracing and ordering the seizure or freezing of such a property.

So, you visualize the situation where actions are being initiated by the wildlife authority, competent authority. But some or the other, somebody is escaping by either hiding or putting that offensive object or the object in relation to which he has illegally got control over of not being detected, not being able to be identified or anything like that by this authority.

And you know very well that wildlife authority by and large do not normally perform this function of identification, tracking, tracing, they need the help of the police. And so, after having made a complaint, issue necessary instructions for them as to what they should do to do all these tasks so that the damage that is being done to the wildlife or the property in relation to that which were with the state as a complete control is minimised or eliminated.

Provisions are also made for the authorized forest officer to undertake measures for managing such property received under seizure or forfeitures. So, not only you get that property through this particular process, you can safely take custody of it and manage that property. The competent authority has all the powers.

This you should know of a civil court under Civil Procedure Code in discharge of all these functions. So, while performing this function you are seeing a judge in the wildlife authority and not just an ordinary officer in uniform discharging his routine functions of an administrator.

There is a provision under the Wildlife Protection Act, once again through an amendment that came later to the Wildlife Protection Act, which is enforced now in a host of provisions and I am encapsulating all of them of creation of an appellate tribunal. It is an inbuilt mechanism for grievance redressal provided under this Act. By the constitution of an appellate tribunal, what it would do? To hear and decide an appeal concerning a forfeited property. I had explained the process and procedure as to how the property is forfeited and is brought under the custody of this authority. Somebody would have a grievance; you have wrongly taken this property.

Now, this is not the property that you should have taken or this is not the persons whose property you should not have taken but somebody else is there is mistake of identity of whatever. To whom I shall appeal? There is a provision here under which an appellate authority is constituted and this body would hear the grievances. In discharge of this particular function, the appellate body is entrusted with the same status as that of a civil court and that is precisely for this reason, the civil courts do not have any jurisdiction on these matters.

So, forest and wildlife, the functions that are discharged by these authorities since it is also having a strong element of judicial functions also, civil courts are barred from exercising jurisdiction over appeal from the orders of the tribunal here. Because the tribunal itself would perform the functions of a civil court and so it will be a duplication. It has the same status as that of a civil court and so these courts cannot entertain any appeal from that. So, appeal will go obviously, if there is a second level of appeal, it has to go to the High Court. So, the lower

judiciary is kept out of the preview of all these actions. Grievance redressal, you have to do it within the inbuilt mechanism provided under this law.

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S. FRA: (a) :- S.6) RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS- CARRIED OUT, WITH THE INITIATION OF THE PROCESS BY THE GRAM SABHA. ANY GRIEVANCES AGAINST ITS FINDINGS, FOLLOWED BY ITS RECOMMENDATIONS, SCRUTINISED AND DISPOSED BY THE SUB-DIVISIONAL LEVEL COMMITTEE(SDMC), AS THE SEAT OF FIRST APPEAL. THERE AFTER IT PREPARES THE RECORD OF FORST RIGHTS (RFR) AND SUBMITS THE SAME TO THE DISTRICT LEVEL COMMITTEE(DLC) - AUTHORITY OF SECOND APPEAL - TO RECEIVE GREIVANCES OVER THE DECISIONS OF SDLC - ITS DECISION ON RFR, FINAL AND BINDING

(b) (-S.7), NO COURT SHALL TAKE COGNIZANCE OF ANY OFFENCE BY ANY OFFICER OR COMMITTEE, UNDER THIS ACT, UNLESS, THE AGGRIEVED FOREST DWELLING TRIBE HAD GIVEN A NOTICE OF 60 DAYS TO THE STATE LEVEL MONITORING COMMITTEE(SLMC) AND THE LATTER HAD NOT ACTED ON THE SAME, BEFORE APPROACHING THE COURT



Let us just get into another legislation, whether such a space is available in other legislations as well? Why not? The Forest Rights Act of 2006. There is a clear provision for recognition, restoration and vesting of forest rights. See, providing for and creation of rights are there in a law. And under the Forest Rights Act, there is no scope for new creation of a right. There is only a scope for a right that is already there which has been ignored or not taken note of, or not taken cognitions of, not respected or whatever, this law provides for recognition of that right.

Not only the recognition, but also a restoration of that right and if it has been not been vested in that person whose right is now being recognized to vest it on that person, that is what is done under the Forest Rights Act. But who does this kind of recognition? Well, you have a elaborate process. It starts with the initiation of the process by the Gram Sabha. The Gram Sabha would identify this and then it would submit its recommendations and its decisions of such a recognition to what is referred to as the Sub Divisional Committee.

The Sub Divisional Level Committee, SDLC, it is not SDMC, it is SDLC. So, please not the correction. Sub Divisional Level Committee, SDLC. So, from the Gram Sabha the recommendation would go, the process is initiated. Supposing the one who feels that his right has to be recognized and the Gram Sabha has not done that, has not recommended such a

recognition, then he has a grievance. From whom he has get his grievance redressed? Well, it has to be addressed to the Sub Divisional Level Committee.

So, the next layer of carrying out this particular exercise is the Sub Divisional Level Committee, this is the seat of first appeal. What does it do? After getting this grievance, after getting the report of recommendation from the Gram Sabha, it will balance all that and then SDLC would prepare the record of Forest Rights, prepare the record. It is a draft. And what does it do? This draft it prepares would submit to the District Level Committee. So, there is a next level. So, you have heard the appeal, you might have accommodated or you might have rejected.

So, at the first level, there is scope for accessing justice of getting back whatever that has been denied to you. Supposing it does not happen, let us assume it does not happen, I am denied at the Gram Sabha level, I am denied at the SDLC level, what shall I do? There is a next level of appeal called the District Level Committee headed by the District Collector. And it is the authority of second appeal. What it would do? It will receive grievances over the decision of SDLC and its decision of on a record of Forest Rights is final and binding. So, that actually settles the issue.

So, two levels of appeal, so scrutiny, cognition, recognition, entry into records, grievance, finalization of the record and binding decision. This is what exactly the court of law would do and that is what exactly is being done by this hierarchy of authorities created under the Forest Rights Act. Let us move on. What is the status of this? Or the order passed by the DLC? Section 7 makes it very clear. No court shall take cognitions of any offence by any officer or committee under this Act unless they are aggrieved forest dwelling tribal committee community had given a notice of 60 days to the State Level Monitoring Committee.

So, above the DLC, you have SLMC, State Level Monitoring Committee and to that a notice, a complaint has to be given. By whom? By the one aggrieved who has been denied this right in that entire process. So, you have the third level of appeal where the State Level Monitoring Committee will have 60 days' time to look into your complaint, to look into your grievance and act on it and issue directions to the DLC to do the corrections or take whatever kind of action.

And it is at that time, after that when the sub the State Level Monitoring Committee has either ignored this complaint, has formed up the decision of the DLC or has rejected the claim, they have looked into it but they do not find any substance or strength in that claim whatever it is, I still remain aggrieved and I can approach the court. I can approach the civil court for taking adequate, appropriate measures for recognition of my right, restoration and vesting of that right in me. So, look at the 3-4 layers of justice dispensation, review, reconsideration, action, all built into this body of law itself.

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6. EIA: - EVERY LEVEL OF DECISION-MAKING, RIGHT FROM THE STAGE OF SCOPING, SCREENING, APPRAISAL LEADING CLEARANCES BY VARIOUS BODIES CONSTITUTED FOR THE PURPOSE, INCLUDING THE SEIA AND MoEFCC, ACT AS QUASI-JUDICIAL BODIES.

- ONLY AN INDICATIVE, AND NOT EXHAUSTIVE, LIST OF THE SPACE AND SCOPE FOR JUSTICE-DELIVERY, WITHIN ENVIRONMENTAL STATUTORY FRAME, WITHOUT THE INVOLVEMENT OF THE FORMAL JUSTICE DELIVERY SYSTEM THROUGH COURTS OF LAW
- IT'S TO DEMONSTRATE THE UNIQUE AND SPECIALISED ASPECT OF THE ENVIRONMENTAL LEGAL REGIME THAT FOREGROUNDS JUSTICE DISPENSATION AS THE INTEGRAL ASPECT OF THE SYSTEM OF GOVERNANCE- AN INSTITUTIONAL ARRANGEMENT THAT IS NOT RUN-OF-THE-MILL MECHANICAL IMPLEMENTER OF WHAT IS PRESCRIBED BY THE LAW MAKER- A SYSTEM THAT HAS AMPLE SCOPE AND SPACE FOR



Let us get back to the rules under the Environment Protection Act. Just one more example. We have the EIA law and EIA law requires decision making at every level of going through the proposal of the project proponent, every level of decision-making right from the stage of scoping, screening, appraisal leading to clearances by various bodies constituted for the purpose, including the State Level Environment Impact Assessment Body to the Ministry of Environment and Forest and Climate change. They act as a Quasi-Judicial Body.

Please recall our discussion on EIA law. This becomes explicitly clear so there is no need for repetition of the kind of role and responsibilities that these authorities have which is just as good as in no way different from that of a Quasi-Judicial authority. What you could see, from all these half a dozen illustrative examples of the inbuilt decision making and justicing facilitation that is there in this body of law, it is just an indicative and not an exhaustive list of that kind of a space and opportunity that is available for justice delivery within the environmental statutory legal frame, without bringing in the formal justice delivery system through courts of law.

So, it is almost like a self-contained, regulatory grievance redressal justice delivery mechanism that you have as a unique body of law concerning the environment that is the conclusion you can draw. The idea is what has been attempted now is only to demonstrate this unique and specialized character of the Environmental Legal Regime in India that foregrounds justice dispensation as the integral aspect of the system of governance. It is an institutional arrangement that is not run-of-the-mill mechanical implementer of what is prescribed by the law maker.

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"INCLUSIVE GOVERNANCE", THAT SECURES ENVIRONMENTAL JUSTICE FROM WITHIN, IN AN AUTONOMOUS WAY

- **THE NARRATION, IN THE WHOLE MODULE IS ALSO ABOUT, THE INADEQUACIES AND FAILURES IN THE WORKING OF THE SYSTEM IN SECURING JUSTICE, FROM WITHIN, OVER TIME, THAT MADE THE HIGHER JUDICIARY TO INITIALLY FILL THAT GAP, LEADING TO THE ESTABLISHMENT OF SPECIALISED BODIES TO RENDER ENVIRONMENTAL JUSTICE, WITH VARYING DEGREES OF SUCCESS, IMPACTS AND RESPONSES!**



A system that has ample scope and space for inclusive governance and justice dispensation, securing environmental justice from within in an autonomous way. Well, in spite of that why people go to court and why we discussed all the while in all our previous narrations in both the tenth and eleventh module so much about courts of law getting into a special court being setup, why is it so? Was that required at all?

If you have problem resolution within and inbuilt into the system itself as has been provided as a self-contained compendium of administration and justice delivery, the elaborate discussion now done in this segment is essentially is all about the inadequacies and failures in the working of the system. Please note that.

In securing justice from within, over time that made the higher judiciary to initially fill in that gap, leading to the establishment of specialized bodies to render environmental justice with varying degrees of success, impacts and responses. This concludes our discussion on

Environmental Justice Dispensation, the Indian brand, a very highly specialized brand of justice dispensation, both within the statutory frame and also through specialised bodies meant for dispensing environmental justice.