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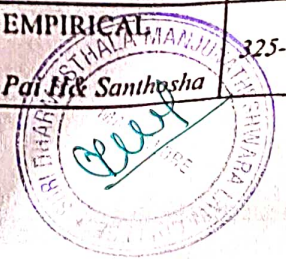
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## CORPORATE SOCIAL RESPONSIBILITY: A PATH TOWARDS SUSTAINABLE ENVIRONMENT

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### ABSTRACT

*The concept of CSR and the environment protection are closely interlinked to each other. It is a fact that the pollution of environment is a necessity in today's world and it is very difficult to attain it in the today's life as most of the activities undertaken by the people are polluting the environment to the larger extent. But as the companies have taken the task of environmental protection under its CSR arena, it has played an important role in the protection of environment to the larger extent. Various initiatives taken by the companies; various laws enacted for this purpose have compelled the company to work for the protection of environment. But care should be taken to maintain a balance between the company's business, its profits and the environment protection. There must be a proper formula to be followed in order to coordinate with all these issues and finally benefit the society to a greater extent.*

*Keywords: Corporate Social Responsibility, Environmental Sustainability, Agenda 21, Environmental Protection.*

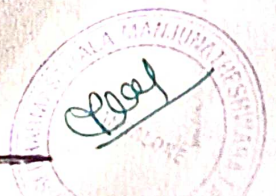
### INTRODUCTION

Concept of environmental protection and its sustainability is an evergreen issue. There is neither any particular season nor some specific area which deals with the concept of environment. Even there is no particular boundary for this concept as environment is a matter of right and duty for each and every individual. Environmental protection is a concern of every creature. It is like, if we have a healthy environment, if we possess a pollution free environment, it is possible to live in the world. Because of this, several international initiatives, national initiatives, declarations, laws have been passed from time to time for the purpose of conserving the environment. In this regard, UN Conference on Environment and Development (UNCED), has stated especially with regard to the concept of sustainable development, which is the key issue in the environmental law in the present day, as 'to treat environment and development in an integrated manner and to co operate in the further development of International Law in the field of sustainable development.'<sup>1</sup> The advancement in the science and technology has created lots of benefits to the people and at the same time has affected the environment to the greater extent. And it is now the concept of Corporate Social Responsibility, which has been introduced under the Companies Act, 2013 through its initiatives have taken a task of the protection of environment.

### RESEARCH OBJECTIVES

The study is undertaken with an object to understand the concept of Corporate social responsibility and sustainable environment. In this regard, the effort has been made in order to bring a link between Corporate social responsibility and sustainable environment and how CSR play a role in attaining sustainable environment. A study also includes the steps taken by the State to attain sustainable environment with the aid of the concept of CSR. A comparative study is made in order to balance between the corporate development and environmental protection. The study includes the reference of several landmark cases where the judgement is made keeping in mind the development of the State as well as the protection of environment.

<sup>1</sup>Principle 27, report of the UN Conference on environment and development.



## RESEARCH METHODOLOGY

The Study is purely doctrinal with reference to empirical analysis as found from the published primary source of information by various State Agencies, Corporate Sectors as well as recognized research agencies. A reference to the primary as well as secondary data is made through the works of scholarly publications and the reports of reliable agencies. In this regard, the relevant case law as decided by the Higher Judiciary will be dealt accordingly. Government website and websites of concerned ministries are also accessed for completing the study.

## FINDINGS OF THE STUDY

### Corporate Social Responsibility and the Environmental Sustainability:

The concept of sustainability first got widespread acceptance through Brundtland Report, which is also known as 'our common future'. In the year 1987, the concept was defined as, 'development that fulfils the needs of the present without compromising the ability of future generations to meet their own needs', and according to which the progress cannot be made by using and consuming irreplaceable natural resources and polluting the earth. The same report was convened by the UN to address governing concerns 'about the accelerating degradation of the human environment and natural resources and the consequences of that deterioration for economic and social development'.<sup>2</sup>

Even the Rio Earth Summit in the year 1992 has further expanded the concept of sustainable development. The goal to ensure environmental sustainability has also been included as the eighth goal of the Millennium Development Goals adopted by the UN Millennium Declaration 2000.

Agenda 21 was a comprehensive and far reaching programme which was set up in the year 1992 for sustainable development and constituted the centre piece of international cooperation and co-ordination activities within the United Nations system. This dynamic programme which was a voluntary action plan opened with the preamble with the statement that in order to fulfil the basic needs of the community, to improve the living standards of all and a better managed and protected eco system and for a safer and more prosperous future, greater attention was to be diverted towards the integration of environment and developmental concern. In order to achieve the above purpose, the world should come together in a global partnership for sustainable development. The preamble further stated that, the development and environmental objectives of Agenda 21 would require a substantial flow of new and additional financial resources to the developing countries, and in order to cover the incremental costs for the actions they have undertaken to deal with global environmental problems and to accelerate sustainable development. The main purpose of Agenda 21 was to address the pressing problems of the 20<sup>th</sup> century and to overcome with the remedy to get rid of those problems in the 21<sup>st</sup> century and make the world a better environment by following the rules and achieving the goals of Agenda 21. The concept of Agenda 21 was even followed under the concept of Corporate Social Responsibility which is particularly enlisted in the Schedule VII of the New Companies Act, 2013.<sup>3</sup>

Concept of sustainability is moving to the core of the business agenda.<sup>4</sup> Concept of sustainable development is also not a new one. And it is the responsibility of every country, be it a developed or developing, to make their land environmentally sustainable. There are certain issues and things in a world which cannot be purchased from money and it is only with the proper use of certain resources, people can maintain the sustainable environment. From the beginning, the whole world is dominated by the nature, and as the human beings who have to adapt their activity to the unchanging forces of nature. But now a day the concept is totally changed. Due to the undue intelligence of human folk, they are going against the nature and environment. Instead of using the natural resources and environment in a friendly manner, his activities and habits are too often threatening and destroying the nature. Man is causing the deterioration of the nature through the depletion of natural resources like air, water, soil, etc which has brought the environment to a critical condition. And because of the advancement in science and technology, it has become easy for a man to destroy the natural resources within a shorter period of time which in turn has created havoc in the matter of environmental protection.

No doubt government has taken many initiatives as well as many rules and regulations to take care of the concept of environmental sustainability. But still the situation has reached to such an extent that almost many resources are getting extinct by day and there is a situation that, our future generations may not be in a position to experience or use certain resources.

The reason for this is many. People have changed their lifestyle and even their thinking and attitude. People have become so greedy. They are crossing their limits and utilizing the natural resources to the maximum extent without thinking about the future generations. As already stated, now because of the advancement in science and technology, the work could be done in a most efficient and easy manner so that too much of resources can be extracted very easily in short span. This has changed the attitude of people and they are forced to grab as much as possible and fulfill their greed. This attitude of people must get lowered. Then the concept of sustainability can be achieved.<sup>5</sup>

<sup>2</sup> Lippe Sands, "Environmental Protection In the Twenty First Century: Sustainable Development and International Law", Cambridge University Press, 1<sup>st</sup> edn, 2000, p.374

<sup>3</sup> Sukanta K. Nanda, "Environmental Law", Central Law Publications, 2<sup>nd</sup> edn, 2009, p.337  
<sup>4</sup> Arn Stigson, President of the World Business Council for Sustainable Development.  
<sup>5</sup> Ibid Note 3 p.375



It is a fact that the government has brought many strict rules and regulation for the purpose of maintaining sustainability in future. Originally, there were no specific provisions exclusively related to the environmental protection and welfare. It was dealt along with other subjects. It was felt necessary to include the specific provisions to protect environment and as a result under 42<sup>nd</sup> Amendment Act, specific provisions were passed that dealt exclusively for the protection of environment. The Indian Constitution was amended suitably by incorporating the Articles dealing with the protection of environment in Part IV and Part IV A under Article 48 A and 51 A of the Constitution and correspondingly included the Right to wholesome environment as an integral part of Right to life under Article 21 of the Indian Constitution. Further, the Judicial Interpretation has strengthened the Constitutional mandate.<sup>6</sup> Even an attempt was made under the Indian Constitution to shift the environment related concepts like forests, protection of wild animals and birds from State List to Concurrent List in order to bring uniformity in law throughout the country.<sup>7</sup>

Article 48-A of the Indian Constitution states under the directive principles of state policy "protection and improvement of environment and safeguarding of forests and wildlife - the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country".<sup>8</sup>

The Environment (Protection) Act, 1986 and various other laws providing for the protection of environment, forest and wildlife are some of the steps taken under this article.<sup>9</sup> Conversion of diesel motor vehicles plying in the capital of India, Delhi to Compressed Natural Gas (CNG) was upheld under this provision.<sup>10</sup> Apart from this several other initiatives have been made under this article in association with other legislations for the protection of environment.

Chapter IV A, Fundamental Duties were added by the 42<sup>nd</sup> Amendment of the Indian Constitution in 1976. Such duties were not included in the original draft. But later on, due to the surrounding circumstances and changing behaviour of the citizen, there was a need to include a concept of Fundamental Duties which is to be followed by the citizen. As a result, Article 51 A was inserted which gave a list of duties to be followed by the citizen of India.

Article 51 A (g) of the Indian Constitution under the Fundamental Duty states that, "it shall be the duty of every citizen of India- to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures".<sup>11</sup> The above article specially deals with the duty of a citizen to protect and improve natural environment. No doubt the Directive Principle of the State Policy under Article 48 A provides the States' responsibility in the protection of environment. But the concept of environment and its protection is not the concern of State alone. It is also the duty and responsibility of every individual to take care of the environment and protect the environment. There should be a proper balance between the two to achieve a desired goal. Even the International Court of Justice also has stated the obligations of the State to protect and respect the natural environment.

The government has taken initiative to solve this problem in a better manner. It has made intelligence in shifting the burden on those companies who pollute or spoil the environment. So, it is they who have to take care of the environment for the running of their businesses. There are several examples where the company has taken initiative to protect the environment and also to give the society a sustainable environment. Now it is considered as a social responsibility of businesses and companies to take care of the environment through its CSR initiatives.

But at the same time, it should not be forgotten by the companies to maintain stability in their business too. The concept of CSR is possible, only when the companies run in profits and only those companies who are flourishing can contribute to the development of the society in the form of CSR. Hence the company should not forget to maintain its stability in business. There must be a proper balance between environmental sustainability and business sustainability. Then only the purpose of CSR can be met with.

#### The Role of CSR in Environment Protection:

The concept of Corporate Social Responsibility plays a very important role in the protection of environment. It is quite evident from the provisions enacted in the new companies Act, 2013, that the companies are forced to take certain measures for the betterment of the environment and even to check environmental pollution and take certain measures to protect the environment. Schedule VII of the Act clearly states the efforts to be taken by the companies for the protection of environment. There are many instances in the society through which the companies played a role in the protection of environment in the name of CSR initiative. No doubt making a sustainable environment and living in a sustainable environment is a difficult task in a present day. The aim of sustainable development is to enable people to satisfy their essential needs and enjoy a better life without compromising the quality of life of future generations.

<sup>6</sup>Shyam Divan and Armin Rosencranz, "Environmental Law and Policy in India", 2<sup>nd</sup>edn, (New Delhi: Oxford University Press, 2005), p. 41

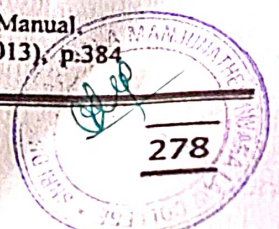
<sup>7</sup> C.M. Jariwala, "The Constitution 42<sup>nd</sup> Amendment Act and the Environment", S.L. Agarwal (Ed), *Legal Control of Environmental Pollution*, (1980), p.73

<sup>8</sup> Article 48-A of the Indian Constitution

<sup>9</sup>For the compilation of laws and regulations in this regard, see Universal's Environment and Pollution Law Manual.

<sup>10</sup>Mahendra Pal Singh, "V.N. Shukla's Constitution of India", 12<sup>th</sup>edn, (Lucknow: Eastern Book Company, 2013), p.384

<sup>11</sup> Article 51-A of the Indian Constitution



As already stated, the concept of sustainability is a global phenomenon. It should be accepted worldwide and followed in and around the globe. As an example, in USA, on January 2006, the Citizens Financial group launched the 'Flex Your Power' energy conservation campaign to reduce energy consumption and improve efficiency. As a part of this project, more than three hundred company signs were converted to photo-cell technology which ensures that the signs are illuminated only when natural light is reduced. This initiative achieved a cost reduction of more than USD 800,000.<sup>12</sup>

Not only in the International sphere, even in the national level many initiatives are taken by the Corporates for the protection of environment. The need for environmental protection was very badly felt and various measures were followed for the environmental protection from time to time. It is the vision and mission of each corporate sector to carry their trade and business eco friendly. Green business is booming in a rapid way. And it is the fact that, those companies who involve in eco friendly business will survive in the present future.

#### Balancing Between the Corporate Development and Environment Protection:

Corporate Development and environmental protection are very much essential for the purpose of development of the nation. Without the presence of corporate sector or industries, there is no question of nation's development. No doubt with the establishment of all these corporate sectors, there will arise both the advantages and even the disadvantages. Environment protection and the sustainable development is a big challenge for the government to take care of. No doubt, these companies contribute too much for the country's development, it is not possible for the state to order for its closure and at a same time the state is not in a position to support these companies who cause greatest havoc in terms of environmental pollution. Hence there must be a proper balance between the corporate development and environmental protection. There are certain evidences whereby the state has tried to maintain a balance between these two spheres. It's a fact that there cannot be exact definition to streamline the corporate development and environmental protection. But the judiciary and the state from time to time have tried to maintain a balance between corporate development and environment protection.

In *Rural Litigation and Entitlement Kendra v State of U.P.*<sup>13</sup>, a voluntary organization wrote a letter to the Supreme Court which was accepted as a writ petition. The main allegation of the RLEK was, there were unauthorized and illegal mining operations carried on in Mussoorie hills and nearby areas which adversely affected the ecology of the area and led to various environmental disturbances. Their allegation was that the erratic, irrational and uncontrolled quarrying of limestone effected the environment and the green cover in the area was reduced from 70% to 10%. Even the reckless mining operations, disturbed the natural water systems, supply of water for drinking, etc. The frequent transportation for the supply of mines and the vibration caused due to this transportation damaged the sensitive environment. On the other hand, the lime deposits of the area were of high grade having up to 99.8% of calcium carbonate, which was used for the purification of iron ore.<sup>14</sup>

The contention of the mining industry was that they satisfied the major portion of the countries demand and it will lead to national income and at the same time these raw materials from the mines were used for the manufacturing of arms and armaments which was used for the purpose of defenses. But it was true that due to these quarrying operations, there was a large destruction in the environment and the environment was affected very badly. Keeping all these considerations in a mind, a special committee was appointed to enquire on these issues known as 'Bhargawa Committee'. And on the recommendation made by the committee and based on their reports, the court gave the decision in favour of RLEK and ordered the mining industry to stop its operation. The court further held that, no doubt mining is important for the economic development of the nation. But at the same time, it should carry its operation in such a way that it should make maximum efforts to reduce the pollution. And as this company failed to do so the court gave decision banning mining operation by this industry. In this way court has tried its maximum to balance between the corporate development and environmental protection.

In a famous *Goa Foundation v The Konkan Railway Corporation*<sup>15</sup>, which is popularly known as Konkan Railways Case, a writ petition was filed in a Bombay High Court by a society asking the court to compel the Railway Corporation to procure environmental clearance from Ministry of Environment and Forests under the Environment (Protection) Act, 1986 for the part of alignment passing through Goa. Their allegation was that the proposed plan was undertaken without an adequate Environment Impact Assessment and Environment Management Plan and the plan would cause large destruction of flora and fauna in turn effecting the environment badly. The court rejected the claims of the petitioners on the ground that the public at large is benefitted by this project and the environment pollution and degradation is negligible compared to the benefits derived from the projects.<sup>16</sup> The judges followed the principle of greatest happiness of the greatest number. It was also of the opinion that when the large number of folks are getting benefitted out of this project, its not bad to have a little effect on environment. And further that small effect can be overcome by adopting alternative and remedial measures like planting saplings, etc.

<sup>12</sup> Ramon Mullerat, "International Corporate Social Responsibility: The Role of Corporations in the Economic Order of the 21<sup>st</sup> Century", (2010), Aspen Publishers, 1<sup>st</sup> edn, at P.161

<sup>13</sup> AIR 1986, SCC 517

<sup>14</sup> Prof. Satish C. Shastri, "Environmental Law", (2012), Eastern Book Company, 4<sup>th</sup> edn, Lucknow, at p. 459-461

<sup>15</sup> AIR 1992, Bom 471

<sup>16</sup> Shyam Divan and Armin Rosencranz, "Environmental Law and Policy in India", (2005), Oxford University Press, New Delhi, at p.469-472



In *S. Jagannath V. Union of India*<sup>17</sup>, A Public Interest Litigation (PIL) was filed under Article 32 of the Indian Constitution alleging that the large scale commercial aquaculture farming and the Shrimp farming in the coastal areas, caused degradation of mangrove ecosystems, depletion of plantation, pollution of ground water and reduction of fish catch which thereby caused pollution and degrading effect on the environment and coastal ecology. Through this writ petition, the petitioner who is the chairman of the voluntary organization who was working for the upliftment of the weaker sections of the society, even sought the enforcement of Coastal Zone Regulation (CRZ) Notification issued by the government of India which dealt with environment protection. In this case Supreme Court gave decision in favour of the petitioner stating that, it would greatly affect the water environment and hence ultimately lead to economic degradation. It even pointed that there are certain other methods of fishing through which the purpose can be met and the nature's gift should not be hampered by the undue intervention of man made products.

In *MC Mehta V. Union of India*<sup>18</sup>, which is famously known as Kanpur Tanneries Case, one Mr. M.C. Mehta, a famous environmental activist, filed a writ petition under Article 32 of the Indian Constitution, where in his petition, he brought to the notice of the court that, the group of tanneries doing the business in the banks of river Ganga by utilizing the water from the same river, were polluting the river by discharging effluents into the river without following proper primary as well as secondary treatment of water. Even in the same petition he added the flaws made by the respective government in taking action against those industries. The court gave the judgement keeping in mind various factors. It held that no doubt as the tanneries were polluting the environment to the larger extent it would be better to shut down the industries for the purpose of environmental protection. Even it also stated that, its not possible to take at a time a harsh step by ordering to shut down the tanneries as it is a major source of national income to the country and even the people who are working in these tanneries and earning their bread and butter would be put to great loss if the tanneries are shut. Hence the court was of the opinion that, those companies which will follow the environmental norms and carry the business by establishing proper treatment plant can be allowed to run their business and those who do not follow any treatment plans were asked to shut down. In this way in the above case the court has tried to establish a balance between these two concepts.

There are several instances and several cases that have come in front of the court and concerned authorities with regard to affect caused by corporate sector to the environment in carrying their business. And the court in all the cases have strike the balance between environment protection and societal development. No doubt environment protection is a key concern issue. At the same time it should not be forgotten to have a good financial and developed modern society according to the changing needs of the people. But there must be a balance between these two so that both should go hand in hand and provide a better environment and best future.

## CONCLUSION

It is true that the concept of CSR has played a very important role in the development of the society. It is also known fact to each of us that the concept of CSR has taken the maximum burden of the society from the hands of the government. No doubt there may be certain hidden agenda with these companies who invest huge amount of money to the society. But still it has in turn helped the society to a larger extent. That too for a country like India the concept of CSR has provided too much of benefits specially in the matter of environment protection which is the greatest challenge to the Government of India as it is very difficult to the government alone to take care of the environment. But these companies by giving their helping hands to the government have lowered the burden of the government. But still in spite of formulating many rules, regulations, directions, still the problem of environment protection is not reduced to the extent expected. There is a need to formulate some advanced procedures for the purpose of environmental protection by means of CSR so that the problem of environment and its protection can be taken care by the advanced rules and regulations and techniques so that there will be good environment in a future.

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<sup>17</sup> AIR 1997 vol 2 5CC 87

<sup>18</sup> AIR 1988 5C 1037

