

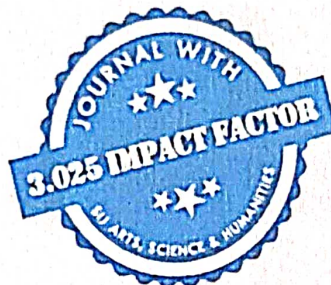
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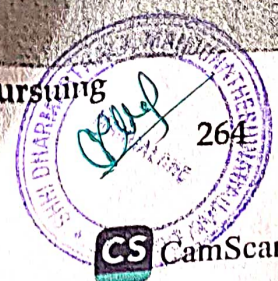
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ENVIRONMENTAL PROTECTION- A WAY TO SUSTAINABLE DEVELOPMENT

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Abstract

The concept of Environmental protection is of international importance. It is a very essential part in every living creatures without which they cannot live. The concept of Sustainable Development is also important for taking the life resources to future generation. If there is no essence of sustainable development, the life of a man will be in chaos and it is highly impossible for a man to make his living. Various Conventions, Treaties, Declarations have been passed from time to time for maintaining a sustainable development. Sustainable development is not possible in a polluted environment as well as in the absence of economic growth. Economic growth is possible with the development of industries as well as corporate sector which will have a high impact on environment pollution. And it is only in a protected environment, sustainable development is possible. There must be a proper balance between the three in order to achieve a sustainable development. It is rightly said that, if the environment is protected, there is an easy way towards sustainable development.

Keywords: Sustainable Development, Environment Protection, Corporate Social Responsibility, Fundamental Duties, Brundtland Report, etc

Introduction

The concept of Sustainable Development is not a new one. From time immemorial the concept has been developed in various ways. No doubt in the early days, there was any need to compel people for implementation of the concept of sustainable development. It was evident that men were not greedy and also there was no advancement in science and technology to exploit the things. The life of a man was happy neither with any trouble nor would create any trouble to his fellow mates. But as time passed, the mentality of a man changed and they were forced to exploit the resources in such a manner not thinking about the future. Development in the field of science and technology helped him to fulfill his greed and it was at this time there was a real need for adopting the concept of Sustainable development. There were many rules, conventions, declarations framed and was enacted from time to time for retaining something to the future generation. The main stress on the concept of Sustainable development was felt for the protection of environment. It is a fact that if we save the environment and preserve its resources in a well manner, everything follows with it. Government took special concern in preserving environment for the future generation. The concept has got its importance even at the International level.

Concept of Sustainable Development

Sustainable development has been defined in many ways, but the most frequently quoted definition is from *Our Common Future*, also known as the Brundtland Report. "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Being an international concept with universal importance, the concept of Sustainable development has been mainly recognized as emerging principles of international law through various conventions and declarations. The term Sustainable Development had its existence at the time of Coooyoc Declaration on Environment and Development in the early 1970's. From that time, it has become the trademark of international organizations dedicated to achieving environmentally benign or beneficial development. It means an integration of developmental and environmental imperatives. It is essentially a policy and strategy for continued economic and social development without detriment to the environment and natural resources on the quality of which continued activity and further development depend. Hence, while thinking of the developmental measures, the need of the present and the ability of the future to meet its own needs and requirements have to be taken into consideration. It is the universal duty of every individual that while thinking of the present, the future should not be forgotten.

The concept has grown since its inception at the international level and it has acquired different dimensions in terms of economic growth, development and environment protection. However, some of the salient principles of sustainable development as culled out from Brundtland Report and other international documents such as Rio Declaration, Stockholm Declaration, The Montreal Protocol and Agenda 21 are as under-

1. Inter-generational equity
2. Use and conservation of natural resources;
3. Environmental protection
4. The precautionary principle
5. The polluter pays principle
6. Obligation to assist and co operate
7. Eradication of poverty and
8. Financial assistance to the developing countries.

The concept of Sustainable development got its importance in the Stockholm Declaration on Human Environment resulting from the United Nation Conference on Human Environment in 1972. The conference marked a watershed in international relations as it placed the issue of protection of biosphere on the official agenda of international policy and law. The initial stages of the conference saw the emergence of two conflicting approaches out of which one insisted that the primary concern of the conference should be regarding the human impact on the environment with emphasis on control of pollution and conservation of natural resources, whereas the second approach laid emphasis on social and economic development as a real issue. The two likely opposite approaches were bridged by the evolution of a concept that environment protection was an essential and important element of economic and social development. Environment protection and its development were conceptualised as two sides of a same coin inseparable from each other. Almost nearly 114 nations participated in the conference which stressed about the universal nature of environment as well as demonstrated that the world has just one environment. The declaration stressed on the importance of development of the country in order to achieve a sustainable development. It stated that only in the developed countries, the concept of sustainable development could be achieved in a proper manner and hence the countries should strive for developing their country which will pave way for the sustainable development.

The concept of sustainable development was brought in common parlance by the World Commission on Environment and Development in its 1987 report commonly called as 'Our Common Future'. According to the Brundtland Report, the concept of sustainable development contains in it the following two concepts-

1. The concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and
2. The idea of limitations imposed by the State of technology and social organisation on the environments ability to meet present and future needs.

Thus it is held that the goals of social and economic development must be defined in terms of sustainability in all countries may be it a developed or developing one. Development involves a progressive transformation of economy and society. The concept of sustainable development does not incur absolute limits to the growth and it is not a new name to environment protection. It is a concept of new economic growth. It is considered as a process of change in which fiscal and economic policies, foreign and trade policies, agricultural, energy and industrial policies aim to induce development paths that are socially, economically and ecologically sustainable. It also stressed that sustainable development cannot and will not be achieved in a poverty ridden State and for the purpose of attaining sustainable development, there is need to achieve economic growth. And economic growth is closely linked with the concept of environment protection. General rights, principles and responsibilities for sustainable development and environment protection adopted under Brundtland commission report are- Fundamental human rights, Inter- Generational Equity, Conservation and Sustainable use, Environmental Standards and Monitoring, prior environmental Assessments, prior notification, access and due process, sustainable development and assistance etc.

The Rio Declaration on Environment and Development which consists of 27 principles focuses on the concept of sustainable development in it. Polluter pays principle, precautionary principle, environment impact assessment are some of the important principles adopted under the Rio Declaration on Environment and development.

By considering the principles of the various conventions and declarations on the sustainable development, it is clear that the main aim of sustainable development focuses on the protection of environment, which in turn leads way to sustainable development. The essence of sustainable development lies in the protection of environment. Out of the three pillars of Sustainable development mentioned by Dominic McGoldrick comprising of International Environmental law, International Human Rights Law and International Economic Law, the central pillar is International Environmental Law, a discipline of international law that has seen enormous growth in recent decades. It is evident that if the environment is protected it is easy to have a sustainable environment which ultimately leads to sustainable development. Even the United Nations Environment Programme (UNEP) has played an important role in the evolution of international environmental law, hence sustainable development. The object of UNEP is to persuade and encourage that the essential attention must be given in environmental spheres.

The Concept of sustainability is moving to the core of the business agenda. Concept of sustainable development is also not a new one. 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 for 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 it is 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, their 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 with the help of new technological equipments and methods which in turn has created havoc in the matter of environmental protection.

It is not only the duty of the people to keep the environment clean but also to use the available resources in such a manner so that it should be made even available to the future generations. If there is no availability of the resources to the future generations, it will be a great mistake on the part of the present society. Hence, it is the responsibility of each and every individual to utilize the natural resources and environment in such a manner so that the resources must also to be available for the future generations. This is the essence of sustainability.

The concept of sustainability has become a buzz word in present generation. No doubt government has taken many initiatives as well as framed several 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 day by day. All the natural resources are getting extinct and there is a situation that our future generations may not be in a position to experience or use certain resources.

People have changed their lifestyle and even their thinking and attitude. Earlier, people used to utilize the resources to the extent what they required. There was no concept of saving and collecting of resources for their own selfish needs. But now, the concept is totally changed. 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, in the present day because of the advancement in science and technology, the work is done in a most efficient and easy manner so that too much of resources can be extracted very easily and in a shorter period of time. This has changed the attitude of the people and they are forced to grab as much as possible and fulfill their greed. This attitude of people must get lowered. Then only the concept of sustainability can be achieved.

The concept of sustainable development has got various meanings according to the practice.

1. It refers to the commitment to preserve natural resources for the benefit of present and future generations;
2. It refers to the appropriate standards for the exploitation of natural resources based on harvests or use;
3. Equitable use of natural resources, so that the use by one State must take account of the needs of other States and people; and



Environmental considerations to be integrated into economic and other developmental plans, programs, projects and that development needs are taken into account in applying environmental objectives.

No doubt, the government has brought many strict regulations and rules for the purpose of maintaining sustainability in future. But it is not enough to make rules and punish those who do not abide by the rules. There are certain issues in the world that cannot be compensated by supplementing things in its place. A good and healthy environment comes in such category, where once the environment is polluted, once the natural resources are harmed, it is not possible to bring them to a normal condition. Environmental pollution will lead to maximum destruction. Hence, it is required that the people themselves must voluntarily join hands for the purpose of protecting environment and in turn developing a sustainable environment as both are interlinked with each other and it is possible to have a sustaining environment only in a protected or pollution free environment.

The importance of nature to the modern societies cannot be neglected. No doubt today's modern societies have provided a lot of technological benefits; it has made our work easier and so on. At the same time we should not forget that we cannot prosper nor we can live without the help of nature. The attitude of the people which make them to behave as if they are in the water tight compartment without the help of nature seems to be very dangerous and it is the direct cause for all the environmental problems we face. There is a close connection with the environment and the people living in the environment. Without a proper environment, a person cannot live in it for even few minutes. Sustainable development is possible only when the nature is protected in a proper manner.

Environment Protection - A Way to Sustainable Development

The protection of environment is needed for sustainable development. The Industrial pollution, degradation of forests, depletion of ozone layer, the greenhouse gases results in global warming and climate change which will have an adverse impact on environment and human health. There is a need for conservation of Biodiversity, protection of wetlands and prevention of environmental pollution, promotion of ecological balance that enables sustainable development.

The balance between environmental protection and developmental activities could be maintained only by strictly following the principles of the sustainable development. The adherence to sustainable development principle is a sine qua non for the maintenance of the symbiotic balance between the right to environment and development. Environment protection is a concerning issue in the present day atmosphere. The science and technological development has made the life of a man easier and hence led to several havocs too. It is a very easy task for a man now to pollute the environment. Environment protection is a concern to the State and it's a duty of the State to take care of the environment to a maximum extent. No doubt there is the concept of Corporate Social Responsibility under Section 135 of the Companies Act, 2013 read with Schedule VII of the same Act which assigns the responsibility to corporate sectors to certain extent but still there is need for a State to have an eye on the working of the corporate sectors and to check these corporate sectors working for the protection of environment.



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In India we have various environmental laws for the purpose of preserving and conserving the environment. From time to time keeping in view certain issues and problems faced by the people in some areas, government has initiated various policies for the protection of environment. Further, the Environmental Protection Act, 1986 provides clear provisions exclusively with regard to the conservation and protection of environment. There is a famous saying that, if there is no favourable environment surrounding us, it is very difficult for the people to live in an unfavourable environment and it will be a great threat to the society. Hence it is the foremost duty of the State as well as each and every citizen of the State to preserve the environment. 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 42nd 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. 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.

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*".

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. Conversion of diesel motor vehicles plying in the capital of India, Delhi to Compressed Natural Gas (CNG) was upheld under this provision. 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 42nd Amendment of the Indian Constitution in the year 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*". 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.



Encouraged by an atmosphere of freedom and articulation in the aftermath of the Emergency, the Supreme Court entered one of its most creative periods. Specifically, the Court fortified and expanded the fundamental rights enshrined in Part III of the Constitution. In the process, the boundaries of the fundamental right under Article 21 were expanded to include environmental protection.

Article 21 of the Indian Constitution, which is considered as a *Heart and Soul* of the Constitution deals with the Protection of Life and Personal Liberty. The concept of Right to Environment flows from Right to Life. The judiciary had interpreted that "Right to Clean Environment" flows from Right to Life enshrined under Article 21 of Indian Constitution.

Environmental protection and the guarantee by the State to lead a decent and meaningful life under Article 21 of the Constitution of India is of recent origin. In fact in *Buffalo Traders Welfare Association v. Maneka Gandhi*, the article was invoked even for providing hygienic conditions in Idgah Slaughters house at Delhi.

Right to life has got manifold attributes. It is not only a mere animal existence and its attributes are manifold as life itself. The right to fresh air, sweet water and the right to wholesome environment are interpreted to be attributed to the right to life guaranteed by Article 21 of the Constitution.

The Supreme Court in *DamodarRao v. State of Municipal Corporation*, held that the slow poisoning by the polluted atmosphere caused by the environmental pollution and spoliation should also be regarded as amounting to violation of Article 21 of the Constitution.

The concept of environment protection has paved a way for sustainable development. It is quite evident that it is only because of maintaining an environment sustainable development is possible.

Hurdles For Attainment of Sustainable Development

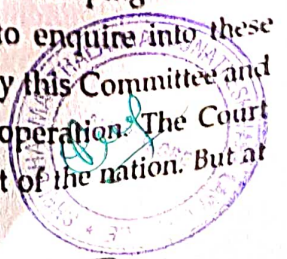
The concept of sustainable development has been achieved to the maximum extent due to the efforts of the government as well as the man force of a country. Various declarations, conventions, treaties, laws have been enacted from time to time in order to attain sustainability. But the task is not easy. There are several hurdles which are to be faced in order to attain a sustainable environment. The main reason for the achievement of sustainable development is over population. The population explosion is a major hurdle for attaining the goal. Out of the whole population, maximum portion of the population live in an underdeveloped and developing countries in a below poverty line because of which the sustainable development becomes a difficult task. The environment is polluted in such a manner that it has become quite impossible to convert the environment into pollution free. Too many industries, buildings, factories in the name of development have succeeded in polluting the environment to the maximum extent. It is a difficult task for the State to strike a balance between the environment protection and development of the State. There is a lack of financial resources with the State to carry out sustainable development programme and they have to depend on the private sectors. But the private sectors work for the sustainable development but in turn play a major role in the pollution of environment in the name of development. Economic Development and environmental protection are very much essential for the purpose of development of the nation. Without the presence of corporate sectors or industries,



there is no question of nation's development. No doubt for a better nation, it is necessary to build a nation according to the modern set up by establishing heavy corporate sectors and various companies and industries. No doubt with the establishment of the corporate sectors, there arise both the advantages and even the related disadvantages. Advantages are many like economic development of the country is achieved, employment opportunities are created, people of the country will be better placed by providing necessities to them, etc. But along with the advantages, we should not forget about the disadvantages caused by the big corporate sectors especially in the field of environment. Environment protection and the sustainable development are foremost challenges for the government to deal with it. No doubt, these companies contribute too much for the countries development, it is not possible for the State to order for its closure and at the same time, the State is not in a position to support these companies who cause harm 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 is a fact that there cannot be an exact definition to streamline the corporate development and environmental protection. But the judiciary and the State from time to time have tried to strike a balance between corporate development and environmental protection.

Rural Litigation and Entitlement Kendra v State of U.P., is the land mark case in propounding a balance between corporate development and environmental protection. The Court, after hearing the arguments has struck a balance between these two conflicting issues. The Rural Litigation and Entitlement Kendra (RLEK) - a voluntary organization wrote a letter to the Indian Supreme Court which was accepted as a Public Interest Litigation (PIL). The main contention of the RLEK was that, 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, careless disposal of the mines debris and random blasting operations disturbed the natural water systems, supply of water for drinking, irrigation purpose were also affected. 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.

On the other hand, the contention of the mining industry was that they satisfied the major portion of the countries demand and adding to national income and at the same time these raw materials from the mines were used for the manufacturing of arms and armaments 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 effected badly. Keeping all these considerations in mind, a special Committee was appointed by the court, to enquire into these issues known as 'Bhargawa Committee'. And on the recommendations made by this Committee and based on its report, the Court ordered that 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



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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 direction banning mining operations by the industry. However, the Court did not interfere with the other mining companies working for the purpose of mining as there was no much effect from their mining operations.

In a famous *Goa Foundation v. The Konkan Railway Corporation*, which is popularly known as Konkan Railways case, a writ petition was filed in Bombay High Court by a society seeking the Court to compel the Railway Corporation to procure environmental clearance certificate 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 a 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 benefited by this project and the environmental pollution and degradation is negligible compared to the benefits derived from the projects. The court followed the principle of greatest happiness of the greatest number. It was also of the opinion that when the large numbers of folks are getting benefitted out of this project, it is 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.

In *S. Jagannath v. Union of India*, 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 sought the enforcement of Costal Zone Regulation (CRZ) Notification issued by the Government of India which dealt with the environmental protection. In this case Supreme Court gave direction in favour of the Petitioner by holding 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 *Vellore Citizens' Welfare Forum v. Union of India*, the case was filed because of the extensive damage caused by untreated effluent discharged by the tanneries of the State of Tamil Nadu. And so the case was before the court to take necessary action against those tanneries which included the request for closing such tanneries. But the court took up the case and set up a Commission with a retired High Court judge, person's expertise in pollution control, etc to give report on those tanneries. And keeping in mind the necessity of the tanneries as well as keeping in mind the employment of the people working for tanneries, the court strike a balance between environmental protection as well as the development of the society.

In *M.C. Mehta v. Union of India*, which is famously known as Kanpur Tanneries case, Mr.M.C.Mehta, a famous environmental activist, filed a Writ Petition under Article 32 of the Indian Constitution, where in, 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. It also stated that, it is 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 the protection of environment and development.

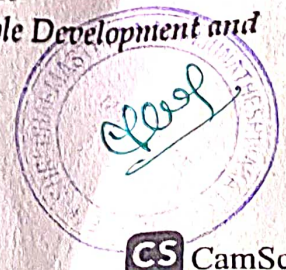
By looking into the decisions of these cases discussed above, it is pertinent to note that the court as well as the State while making any decision has attempted to strike a balance between the corporate economic development and environmental protection. No doubt both are necessary for the smooth running of the society as well as for the welfare of the people. But there must be a proper balance between the two concepts for the attainment of sustainable development.

Conclusion

Environmental protection is an essential concept in present days. No doubt people cannot live in a polluted environment. They have to lead a decent life which is possible only in the pollution free environment. Environment protection is a subject of concern in a present day. Various reasons have provoked people to spoil the environment. With the enactment of several legislations the protection of environment is met into. The environment protection ultimately leads to economic development but economic development is achieved though development of industries and companies which will affect the environment and it is only with the protected environment we can achieve sustainable environment and hence sustainable development. Hence there must be a proper balance between the economic development, development of corporates and industries and environment protection to achieve a sustainable environment. Sustainable development cannot be achieved in an unbalanced environment. It is ultimately the responsibility of the present generation to think about the future generation and lead to the better development of the people as well as environment in future. Hence it is rightly said that "Environmental Protection- A way to Sustainable Development".

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