



Academic Article

Environmental legislation: compliance in development activities

Ramesh Sharma
Open Eye News, Bhopal, Madhya Pradesh, India

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Abstract: Unplanned development activities have caused significant environmental damages which are definitely irreparable also. Carrying capability of the environment is limited and some areas and ecosystems are more liable to the unfavorable environmental impacts than others.

This necessitates the strict compliance of the environmental legislation during construction and operational phases of housing and commercial projects. A planned approach is needed considering a flawless management of the natural resources specifically the *land, ground water and minerals*.

I intend to present a brief of my research carried out in Madhya Pradesh and Chattisgarh states analyzing the enforcement and compliance/monitoring of the environmental legislations and their provisions as applicable:-

*To the residential and commercial buildings and construction projects (real estate projects and automobile sector of these two states).

*Abstraction of ground water for various uses (domestic and commercial purposes.)

*Flaws in implementation and monitoring of environmental legislation in real estate projects and automobile segments.

The research conducted on the basis of the documents obtained under RTI act and thereafter approach to the various central and state government departments along with the publication of the News pertaining to it in my publications as well local Newspapers.

INTRODUCTION:

Environment is the source of life on Earth like Water, Air, Soil, etc., and determines the presence, development and improvement of humanity and all its activities. The concept of ecological protection and preservation is not new. It has been original too many ancient civilizations. Ancient India texts highlights that it is the dharma of each individual in the society to protect nature.

In recent years, there has been a constant focus on the role played by the higher judiciary in devising and monitoring the implementation of measures for pollution control, conservation of forests and wildlife protection. Devices such as Public Interest Litigation (PIL) have been prominently

relied upon to tackle Environmental problems, and this approach has its supporters as well as critics.

The main objective behind this study made by the author is to identify the present scenario and analyze the **Implementation and monitoring of environmental legislation in two segments i.e. real estate and automobile segment of two states:**

The main objective behind this research is to identify the present situation IN THESE SEGMENTS. This paper commences with the meaning and need for environmental laws. The proposed study will lead to a more expressive and comprehensive understanding of the environment laws and the policy along with the role of various agencies in context to the new emerging threat which need to be combat effectively.

REAL ESTATE:

Environmental legislation applicable to the Real Estate sector:-

1. EIA notification 2006 as amended under EPA-1986
2. Water (Pollution Control and Prevention) Act 1974.
3. Air (Pollution control and Prevention) Act 1981.
4. Hazardous Waste (Management, Handling and Trans-boundary Movements) Rules 2016.
5. Provisions of other rules to be followed for safe-guard of Environment.
6. MSW (Municipal Solid Waste) Rules.
7. Construction and Demolition Rules.

EIA NOTIFICATION 2006:

Under this notification various projects pertaining to development activities have been categorized as 'A' and 'B'

In MP and CG category 'B' projects are existing for which The SEIAA (State Environment Impact Assessment Authority)

takes decision on the recommendations of State Expert Appraisal Committee (SEAC)

SOME FLAWS IN THE EXPERT COMMITTEE APPRAISING PROJECTS FOR EC:

1. Committees do not have Expert Members from Environmental backgrounds.
2. Experts do not have any expertise for the monitoring of the EC conditions.
3. The responsible government agencies viz. MP Pollution board and MOEF are not very much serious to monitor the conditions of EC after the projects are given ECs.
4. Delays in the SEA/SEIAA meetings for any reason delays the EC to the projects resulting in cost escalation of projects which is direct loss of the project proponents.

As a result, very poor environment management plans are prepared and implemented causing potential damages to the environment and the development thus achieved is also not sustainable:

The Research conducted on the basis of documents obtained under RTI Act and it was found that from the year 2008, some major builders and colonizers had applied for EC before SEIAA. Most of the builders in the states were either not aware of the act and some specific cases, did not apply for the grant of EC.

Even those builders who obtained EC from SEIAA not serious to implement the conditions mentioned in the EC letters e.g. they did not pursue the rules, not submitted the compliance reports to MPPCB and MOEF. Ultimately, it was the result of lack of care of the MPPCB and MOEF. The ground reality of standard conditions of EIA notification 2006 was not found at the project sites of builders even these are constructing huge projects.

Despite the provisions of penalty for contravention of the EP Act Section 15 (a) and (b), (applied on project proponent) section 16 (a) and (b) (applied on company) and section 17 (a) and (b), (applied on the government departments), No proper implementation of Act was carried out by all of them.

EFFORTS AFTER THE RESEARCH:

After huge efforts made towards this important issue pertaining to the protection of environment as laid down in the laws, following efforts were made accordingly:-

The chief Secretary of the state of MP along with the all responsible officers viz. Principal Secretary, SEIAA, TNCP, Municipal Corporation, Reserve Bank of India, all nationalized banks, RERA and MOEF were informed accordingly along with all important papers obtained during research.

RESULT:

From the period of December 2014 to March 2018 necessary actions were taken accordingly (including filing court cases in various courts by MPPCB) by all the concerning government agencies. After raising a question in MP Assembly and correspondence the summary revealed as under in MP:-

- (a) No. of builders to whom notices /reminders were given by the MPPCB - 272
- (b) No. of builders against the court cases were filed – 72

Likewise the Chattisgarh Environment Conservation Board Raipur issued notice to builders to obtain permissions in accordance with EIA notification 2006.

Thereafter, the RBI took a strong step and instructed all banks of both states to deal

accordingly before finance considering the court cases and Master circular of RBI dated 01 Jul 2015. Now, all financial institutions are very much concerned for the Environmental legislations and made it mandatory for all Real Estate projects to produce EC and other environmental clearance before getting approval by the Banks.

GUIDELINES FOR THE ABSTRACTION OF GROUND WATER:

- The objective of guidelines is to focus on a specific part of ground water management viz. ensuring sustainability of ground water both in terms of quantity and quantity and also focus on lad based management of ground water resources.
- As per the data available through RTI, there is no proper observation on abstraction of ground water by the Real Estate Sector. The clause mentioned in the EC is being overlooked. There is no monitoring by the concerned authorities and as per the information received from the Central Ground Water Authority, only 12 housing and commercial projects have been given NOC by CGWA and 39 have applied for NOC. Surprisingly, the minister of Unban Development of MP replied in Vidhan Sabha question that there was no rule to prohibit builders to abstract ground water while constructions or other activities. In absence of proper monitoring and assessment, the level of ground water level is gradually squatting.
- The fact is highly unexpected. The CGWA throws responsibility on the local administration which is fully unaware of the guidelines. All users are abstracting the ground water taking advantages of ignorance of CGWA guidelines. Although The Central Ground Water Authority has issued a public notice on 13 August 2018

following the NGT's directions saying to obtain NOC for all existing industries/infrastructure/mining project etc. and published a gazette notification on 12 Dec 2018 in this respect. An order saying that industries using ground water without NOC after 31 March will be slapped with fine of Rs 5000/- per day.

Looking into the several instances of non-compliance of mandatory conditions stipulated in the NOC by the proponents, the CGWA has issued a notice on 16 Jan 2019 that random site inspection without advance notice shall be conducted by authorized officers of CGWA to check compliance of NOC conditions by industries /infrastructure projects/mining units. Any violation observed during inspection is likely to result in cancellation of NOC, sealing of tube well/bore wells and other legal actions as per the provisions of the EP Act. 1986.

RECOMMENDATIONS:

1. Officials of Pollution Control Board and MOEF should be more concerned and dedicated to implement EP Act amongst the project proponents.
2. Monitoring of the projects should be strictly followed and necessary action should be taken against defaulters by filing the court cases.
3. The responsible government agencies must be made liable for any lack of implementation of the Act.
4. Government should advertise all facts so that the public become aware of the defaulters not following rules.
5. Financial institutions should strictly follow Master circular of RBI 01 Jul 2015 (Rules for finance of House loans)
6. All environmental issues must be addressed seriously by the Central and State Government departments.

References

- (a) EIA Notification 2006.
- (b) Environment Protection Act 1986.
- (c) Notification of Government of India S.O. 1533 (E) Dated 14 Sep 2006.
- (d) Memorandum of MP Government Dated 07 Jul 2004 and 14 Oct 2005.

AUTOMOBILE SECTOR

Violation of the provisions of the Water Act 1974 Air act 1981 and Hazardous Waste Management Regulation and Transboundary Movement Rules

As an applicant, I approached to the NGT on 25 Jul 2015 to file a petition against the automobile manufacturers, State Government departments and owners of dealership service stations of various automobile companies (Total No. 41) under above rules and regulations. The application was admitted by the NGT under case No. 61/2015 (CZ). It was the first incident, probably in India, when national and international manufacturers, their dealers and state government departments were respondents.

After plenty of hearings, it was found that 400 plus service stations are functioning without the consent of MPPCB. On 24 Jan 2016, the MPPCB Bhopal has issued public notice for all service stations to obtain consent under the provisions of Air and Water Act. It is to be noticed that it is mandatory for all concerned service stations of automobile dealerships to install ETP (Effluent Treatment Plant) with separate Electric Meter to treat the contaminated water.

RESULT:

After hearings for approximately one year plus, the NGT has given final order to monitoring of the discharge from ETP shall be done on regular basis and in case of default they would direct the units to install

online monitoring system at their own cost with additional penalty of closure, if found to be not complying with.

After this order, passed on 25 Oct 2016, all authorized dealers of automobile companies of Bhopal have installed ETP and fulfilled the conditions provided in Air and Water Act. This order was later on, implemented by other MPPCB offices of the states. On the basis of this order, the presenter has also approached the State of Chattisgarh which has also issued notices to 400 plus automobile dealers to implement the order of Central Bench of NGT Bhopal.

RECOMMENDATIONS:

1. The MPPCB offices of both the states should monitor the discharge of contaminated water being discharged during servicing of vehicles.
2. MPPCB should make timely inspections of all concerned service stations to check about the implementation of terms and conditions mentioned in their consent to establish given by the board.
3. Board should insist on the Environmental Statements which are required to be submitted by the industries.
4. Board should take immediate action against those who do not follow the provisions made under Air and Water Acts by filing the court cases at various places.

REFERENCES:

- (a) Document obtained through the RTI Act 2005.
- (b) EPA 1986.
- (c) Water (Prevention and Control of Pollution) Act 1974 and Water Rules 1975.
- (d) Air (Prevention and Control of Pollution) Act 1981 and Air Act 1982.
- (e) Hazardous and other Wastes (Management and Transboundary Movement) Rules 2016.
- (f) E-Waste (Management Rules) 2016.

- (g) Solid Waste Management Rules 2016.
- (h) Plastic Waste Management |Rules 2016.
- (i) Batteries (Management and Handling) Rules 2001.
- (j) Municipal Laws and Environment statute by respective state.