



ENVIRONMENTAL JURISPRUDENCE (1998). By Justice Ashok A. Desai. Vikas Publishing House Pvt. Ltd., New Delhi. Pp. xvi + 314. Price Rs. 475.

THE ZOOLOGIST Reiter is understood to be the first man to propose in 1985 the term “ecology”. The said word is derived from the Greek word *oikos*—meaning home or abode and *logos*—meaning study or discourse. The term “environment” is the key word in the definition of ecology. Etymologically, the term means surroundings. As a matter of fact, any condition, force or substance which affects organisms in any way becomes a factor of their environment. The sum total of all such factors constitutes the environment. The inter-dependence between the organisms and its living and non-living surroundings, constitute the ecosystem. The combination of ecosystems which share a similar character and arrangement of vegetation and also occur in a similar climate are called the biomes.

The law relating to environment enunciated to protect and improve the environment is neither a new field of law nor a recent idea of legislature. Of course, it is also not a very old idea either. In spite of the fact that our government has lagged behind in many ways in enacting certain statutes for the protection and improvement of the environment, the government, of late, took steps to take care of the environmental issues and enacted certain legislations for the protection and improvement of the environment. The major Acts enacted by the government are, (i) The Wild Life (Protection) Act 1972; (ii) The Water (Prevention and Control of Pollution) Act 1974; (iii) The Water (Protection and Control) Cess Act 1977; and (iv) The Air (Prevention and Control of Pollution) Act 1981. Part IV of the Constitution of India which lays down the Directive Principles of State Policy, *inter alia*, has dealt with the duty of State to improve public health which in effect, can be achieved through a healthy environment which has the proper and balanced ecosystem. Constitution (42nd Amendment) Act 1976, by inserting article 48A in the Constitution made it obligatory on the State to endeavour to protect and improve the environment and to safeguard the forest and wild life of the country. Further, the said Act has also inserted a new Part IV-A dealing with the fundamental duties of the citizen. Under article 51A(g) one of the duties of the citizens is to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures. Article 246 of the Constitution empowers legislatures to legislate in respect of the environment. Such powers are conferred both on Parliament as also the States and have been defined in List I — Union List, List II — State List and List III — Concurrent List. Article 31A of the Constitution prescribes for protection to environment laws.

Environmental Jurisprudence, a book by Justice Ashok A. Desai — a noted jurist — is the first treatise of its own kind in India. It is loaded with authoritative references and instructions in the *Vedantic* tenets, the *Ayats* of Allah and preachings of Jainism and Buddhism dealing with environment. It endeavours to analyse and consolidate various jurisprudential concepts and efforts from the *Vedic* era to the present day. Their impact on the development and codification of various environ-



ment laws has been brilliantly discussed in the book. The book also highlights social, ethical and economic constraints which restrict more sweeping legislations.

The book deals with the legislative aspects of conservation of bio-diversity, sustainable development, population explosion, global environmental regulations, treaties, declarations, *etc.* It also discusses the role of judicial activism in protecting the environment. The eminent author has brilliantly analysed the problems of environment and has also suggested the guidelines for arresting the steady deterioration of environment.

The Gandhian approach to the environment is also explored as an alternative. Environmental spiritualism and environmental sovereignty are distinguishable features of the book.

The book consists of 12 chapters. Chapter I deals with the ancient and historical prudence. It also deals with the pre-historic prudence. Chapter II deals with jurisprudence and codification. In this the author has dealt with the source and philosophy of laws. It also deals with the jurisprudence of codification and protection to natural right.

Chapter III deals with the emergence of environmental jurisprudence which, *inter alia*, includes Gandhian Environmental Prudence, constitutional and legislative development and eco-civilisation.

Chapter IV deals with the development of environmental jurisprudence. In the said chapter the author has dealt with the European Community Act, the Stockholm Declaration, India's perspective and the Club of Rome.

Chapter V deals with the legislative measures to prevent water pollution. The said chapter deals with the water pollution through legislative vision and it also deals with the legislative measures by USA, UK and India. The author has also dealt with the various aspects of environment as enumerated under the Constitution of India.

Chapter VI deals with the legislative environmentalism. It deals with the legislative measures to prevent air pollution, legislative predicament and jurisprudential desirability.

Chapter VII deals with the jurisprudence of legislative activism. It talks about the jurisprudence of pre-impact assessment, transboundary impact, jurisprudence of public participation in process of EIA, legislative measures for safety, hazardous waste management through legislation, legislative measures to control soil pollution, legislative measures to control noise pollution, and legislative measures to control vehicular pollution.

Chapter VIII deals with trans-boundary pollution. This, *inter alia*, includes pollution by radiation, sea pollution, plastic pollution.

Chapter IX deals with judicial contribution in the development of environmental jurisprudence. It, *inter alia*, deals with the jurisprudence of public interest litigation, jurisprudence of judicial activism, monitoring of the same by the Supreme Court, concept of right to life, judicial drive for a device of insurance of public liability, constitution of environment court/tribunal/commission.

Chapter X deals with the advent of world environmental jurisprudence. It deals with the Earth Summit 1992, population explosion — a phenomenon of environmental disaster, eco refugees — black shadow of environmental calamity, legisla-



tive measures for conservation — bio-diversity — environmental legend, the various aspects of bio-diversity protection to wild life and the global strategy to save the bio-diversity. It also deals with jurisprudence of sustainable development and global strategy to save bio-diversity.

Chapter XI deals with the jurisprudence of global environmental regulation. It deals with the norms emerging to regulate global environment. It also provides for the various international organisations, treaties and enforceability of international obligations, *etc.*

The last chapter, namely, chapter XII, deals with the 21st century. It discusses the Global 2000 Report. It also deals with the Gandhian Environment Prudence — which is also called eco-consumerism. The environmental sovereignty is another part of the chapter.

The book reflects the inventive spirit of the author and also the depth of knowledge on the subject. It is heartening to find unique ideas of the nature and quality. The book has no other similar authority in India, and it makes a handy, nearly encyclopaedic compendium on environmental issues. Needless to say it is a must for the experts in the field of law and environment, for legislators and most certainly for “ecological illiterates”.

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