

1. INTRODUCTION

India is one of the most blessed countries so far as its water resources wealth is concerned. The average annual precipitation in India is higher than that of any other continent in the world except that of South America and is twice that of the average precipitation of the continent of Asia. However, India uses only one tenth of the precipitation it receives annually as the rest of the water drains into the sea and is not properly utilised.¹ Adding to this, water resources become available only during certain months of the year and this uneven distribution is one of the factors leading to floods and droughts. Therefore, when we talk of water resources management, it means guaranteeing sufficient and even supply of water throughout the year and also ensuring its good quality.

Since India is a very vast country with pronounced ecological diversity, the management of natural resources of any kind becomes problematic. Management will have to be region specific and not eco system specific and this can only be achieved by more and more decentralised control and people's participation. Since water, that as to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power and fisheries are items of List II of the seventh schedule of the Constitution i.e. the state list, decentralised control is ensured to some extent. The proposed constitutional sixty fourth

and sixty fifth amendment is again a positive step in the direction of region specific control. By these amendments, the panchayati raj institutions and municipalities are to be rejuvenated and given more powers and funds to be directly transferred to them from the centre. The emergence of NGOs and cooperatives at the grassroot level has again made the notion of decentralised control more meaningful.

Since the protection and development of water resources is part of the overall environment protection programme, the setting up of various committees and departments like the National Committee on Environmental Planning and Coordination or the Department of Environment to name only a few, the launching of various research and media programmes, curricula, laws and so on have direct bearing on the water resources situation in India. In this area specifically, the National Water Policy containing a comprehensive package to deal with various issues relating to the use and misuse of water was floated in 1987 in addition to specific programmes and laws. However, despite the increasing water consciousness at all levels, the situation remains quite grim today, mainly due to laxity in implementing policies and programmes. Many areas like control of floods and droughts, development of small water bodies, pollution control, equitable development of fisheries, control of dam planning, construction and disasters and so on remain grossly neglected. There are

many areas wherein effort has to be made to undo mistakes already made. Like for example, in the area of water pollution, according to the Central Board of Water Pollution, only eight cities in India are provided with complete sewerage and sewage treatment facilities. Therefore, most of the community and industrial wastes goes directly into the water courses. Similarly there is statistics to support that 50 per cent to 70 per cent of the pollution level in a stream is contributed by domestic sewerage.² Therefore conservation of the quality of water in these streams would not only mean improving the sewerage system but also de polluting the waters already affected.

Given the situation as it is, what is imminently needed at this juncture is gearing up of the available machinery to stop further deterioration of this resource. Strategies will have to be worked out at the policy making, planning, law making, administering and adjudicatory levels to ensure sustainable development and equitable distribution of the resource.

In India, the management of water resources vests mainly with the state although proper management is impossible without active participation of beneficiaries, if they are to be so termed. A matter of prime importance here is to secure accountability of the managers as well as the beneficiaries to the resource

so that mechanisms can be devised to arrest deterioration of the resource. In this paper the nature of accountability in the working of various mechanisms having direct bearing on the legal control of the resource will be examined.

II. ACCOUNTABILITY: CONCEPT AND FUNCTIONS.

Accountability, responsibility and authenticity are essential features that should govern the activities of a democratic state. However, accountability as a concept has not been defined in law but when one talks of accountability a situation can be envisaged wherein there is a duty to perform an act and coupled with it is liability for non performance. Accountability is never mentioned in black letter law though its presence can be deduced from the way in which duties are cast and liabilities prescribed in the Act. There are many laws existing today which have grown on the ethical and moral edifice. The whole realm of tort laws, contract laws and administrative laws are living examples of this. It is nowhere written in any statute that promises are to be kept or that there is a duty to take care. Similarly the standard of the reasonable man in the law of negligence and natural justice principles in administrative law have also developed because the standards of justice mandated so. Accountability is also an ethical notion responding to justice. It is difficult to quantify the amount of accountability expected in every action because