

**HANDBOOK ON
LEGAL AND
ADMINISTRATIVE
REMEDIES FOR
COMMUNITY LEVEL
ENVIRONMENT JUSTICE
PRACTITIONERS**

**ଗୋଷ୍ଠୀସ୍ତରୀୟ
ଆଇନଜୀବିକା ପାଇଁ
ପରିବେଶ ନ୍ୟାୟ
ସମ୍ବନ୍ଧୀୟ ନ୍ୟାୟିକ
ଓ ପ୍ରଶାସନିକ
ପ୍ରତିକାର ପାଇଁ
ପୁସ୍ତିକା**

Version 2



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ସେକ୍ଟର ଫାର ପଲିସି ରିସର୍ଚ୍ଚ ସମ୍ବନ୍ଧରେ

ସେକ୍ଟର ଫାର ପଲିସି ରିସର୍ଚ୍ଚ (ସି.ପି.ଆର୍) ଭାରତ ବର୍ଷରେ ୧୯୭୩ ମସିହା ଠାରୁ ସାର୍ବଜନିକ ନିତି ଉପରେ ପ୍ରବୃତ୍ତ ବିଶେଷଜ୍ଞ ମାନଙ୍କ ସମୂହ ଅଟେ । ଏହା ଏକ ଅଣ ଲାଭକାମି, ସତ୍ୟ ସଂଗ୍ରାହୀ ଯାହାକି ଭାରତରେ ଜୀବିକାକୁ ପ୍ରଭାବିତ କରିବା ତା'ର ଏବଂ ପ୍ରକ୍ରିୟା ଉପରେ ସାର୍ବଜନିକ ଚର୍ଚ୍ଚା ପାଇଁ ଯୋଗଦାନ ଉପରେ ଅନୁଧ୍ୟାନ ଉପରେ ସମର୍ପିତ ଅଟେ ।
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ନମତି ସମ୍ବନ୍ଧରେ

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HANDBOOK ON LEGAL AND ADMINISTRATIVE REMEDIES FOR COMMUNITY LEVEL ENVIRONMENT JUSTICE PRACTITIONERS

ଗୋଷ୍ଠୀସ୍ତରୀୟ ଆଇନ୍‌ଜୀବିକ
ପାଇଁ ପରିବେଶ ନ୍ୟାୟ
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ପ୍ରତିକାର ପାଇଁ ପୁସ୍ତକ

Version 2

**Centre for Policy Research (CPR)
Namati Environmental Justice Program**

ସେଣ୍ଟର ଫର ପଲିସି ରିସର୍ଚ୍ଚ (ସିପିଆର)-
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September 2017

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LIST OF ABBREVIATIONS

CEPI	Comprehensive Environmental Pollution Index	MoEF	Ministry of Environment & Forests
CGWA	Central Ground Water Authority	MoEFCC	Ministry of Environment, Forests & Climate Change
CGWB	Central Ground Water Board	NBWL	National Board for Wildlife
CPCB	Central Pollution Control Board	NGT	National Green Tribunal
CPR	Centre for Policy Research	NOC	No Objection Certificate
CRZ	Coastal Regulation Zone	OE	Over-exploited
CVCA	Critically Vulnerable Coastal Area	PESA	Panchayat (Extension in Scheduled Areas) Act
CZMA	Coastal Zone Management Authority	RTI	Right to Information
DLCC	District Level Coastal Committee	SBWL	State Board for Wildlife
EC	Environmental Clearance	SC	Supreme Court
EIA	Environment Impact Assessment	SEIAA	State Environment Impact Assessment Authority
EPA	Environment Protection Act	SPCB	State Pollution Control Board
ES	Environment Statement	SWGB	State Ground Water Board
ESA	Ecologically Sensitive Area	TSDF	Transport, Storage and Disposal Facility
FCA	Forest Conservation Act	ULB	Urban Local Body
FRA	Forests Rights Act	UT	Union Territory
IPC	Indian Penal Cod	WLPA	Wildlife Protection Act
KSPCB	Karnataka State Pollution Control Board		

BACKGROUND AND CONTEXT

A problem can occur, no matter where we live, pass by everyday or cross occasionally. One could be living next to an industrial site which is polluting the nearby river, a power plant which is dumping fly ash on an agricultural field or a beach where the municipality is dumping the town's solid waste. A friend or a fellow resident of one's village might point us to an instance of river bed sand mining causing flooding or a tourist resort blocking access to a drinking water source and a grazing ground. Even if none of these problems are near where you live, your everyday access road could be the main route transporting coal, bauxite, iron ore or any other mineral, which would still make living conditions difficult.

Each such activity is more often than not, governed by a law. This could be both for prior approval and post approval compliance, based on specific safeguards or conditions. Safeguards or conditions are not just limited to environmental approvals, but can exist in lease documents or land transfer agreements. There could also be a court judgment or order which is generic in nature and has a bearing, no matter where you are located in the country, on particular issues like permissions for sand mining, tree felling or change of land use of common lands. It is possible that problems you notice or are directly affected by are occurring because someone, somewhere is not adhering to provisions of legal directions, be it by way of laws or court directions. If this is the case, there is likely to be a clear institutional framework and defined administrative agencies who would be mandated to restrict this activity, monitor non-compliance, as well as take action to remedy the situation and issue penalties. There could also be instances where an impact is not the result of a legal violation, but it may still be causing a hindrance to everyday living and affecting access to clean air or water. In such cases, there is also a possibility of invoking the authority of an administrative official to intervene and resolve the matter.

However, people affected by a problem are often not aware that it is because of non-compliance with the law or that there is an institutional remedy available for the same. Maybe, if the mandatory requirements had been adhered to, the problem might not have occurred in the first place. This is not a surety but a distinct possibility. Understanding whether the difficulty one is facing is due to legal or illegal actions can be one way of attempting to find a resolution. It does not require one to qualify as a lawyer, know how to draft court petitions or be fluent in legalese. Basic knowledge of applicable legal clauses and which institution would be best suited to approach for remedy, can be important allies in trying to solve real time problems with people dealing with a range of environmental and social impacts discussed further in this handbook.

ପୃଷ୍ଠଭୂମି ଓ ପ୍ରସଙ୍ଗ

ସ୍ଥଳବିଶେଷରେ ଆମେ ବସବାସ କରୁଥିବା ସ୍ଥାନ, ପ୍ରତିଦିନ ଚଳପ୍ରଚଳ ହେଉଥିବା ଅଞ୍ଚଳ ଓ ବେଳେ ବେଳେ ଗୋଟିଏ ସ୍ଥାନରୁ ଆଉ ଗୋଟିଏ ସ୍ଥାନକୁ ଯିବା ଆସିବା କରିବାବେଳେ ଅତିକ୍ରମ କରୁଥିବା ସ୍ଥାନରେ ସମସ୍ୟା ଦେଖିବାକୁ ପାଏ। ଆମେ ବାସକରୁଥିବା ସ୍ଥାନ ନିକଟରେ ଅବସ୍ଥିତ କାରଖାନା ପାଖରେ ଥିବା ନଦୀକଳକୁ ପ୍ରଦୂଷିତ କରୁଥାଇପାରେ, ଶକ୍ତି ଉତ୍ପାଦନ କାରଖାନା ଏଥିରୁ ନିର୍ଗତ ପାଇଁ ଗନ୍ଧାକ୍ଷୟ ଗବା କରୁଥାଇପାରେ କିମ୍ବା ସମୁଦ୍ର ବେଳାଭୂମିରେ ମୁ୍ୟନିସ୍ପାଲ୍ଡି ସହରରେ କଠିନ ବର୍ଜ୍ୟବସ୍ତୁ ଗବା କରୁଥାଇପାରେ। ଆମର କୌଣସି ବନ୍ଧୁ କିମ୍ବା ଆମର ଗାଁ କେହି ଜଣେ ବାସିନ୍ଦା ନଦୀ ତଟରୁ ବାଲୁକା ଉତ୍ତୋଳନ ହେତୁ ସୃଷ୍ଟି ହେଉଥିବା ବନ୍ୟା କିମ୍ବା କୌଣସି ପର୍ଯ୍ୟଟନ କେନ୍ଦ୍ର ପାନୀୟଜଳ ଉତ୍ସ କିମ୍ବା ଚାରଣ ଭୂମି ବ୍ୟବହାର ପଥକୁ ଅବରୋଧ କରୁଥିବା ବିଷୟରେ ଆମକୁ ଅବଗତ କରିଥାଇପାରନ୍ତି। ଆମେ ବାସକରୁଥିବା ସ୍ଥାନରେ ଉପର ବର୍ଣ୍ଣିତ ସମସ୍ୟା ଗୁଡ଼ିକର ଆମେ ସମ୍ମୁଖୀନ ନହେଉଥିଲେ ମଧ୍ୟ ଏପରି ହୋଇପାରେ ଯେ ଆମେ ପ୍ରତିଦିନ ଯାତାୟତ କରୁଥିବା ରାସ୍ତା କୋଇଲା, ବକ୍ସାଇଟ୍, ଲୌହପିଣ୍ଡ କିମ୍ବା ସେଭଳି ଅନ୍ୟ କୌଣସି ଖଣିଜ ପଦାର୍ଥ ପରିବହନ ହେଉଥିବା ମୁଖ୍ୟ ରାସ୍ତା ହୋଇଥାଇପାରେ ଯାହାକି ଜନଜୀବନ ପାଇଁ ପ୍ରତିକୂଳ ହୋଇପାରେ।

ଏହିସବୁ କାର୍ଯ୍ୟକଳାପ ପ୍ରାୟତଃ ଆଇନ୍ ଦ୍ଵାରା ନିୟନ୍ତ୍ରିତ ହୋଇଥାଏ, ଏଗୁଡ଼ିକ ଉତ୍ତମ ପ୍ରାକ୍ ଅନୁମୋଦନ ଓ ଅନୁମୋଦନ ପରବର୍ତ୍ତୀ କାଳରେ ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତାବଳୀ କିମ୍ବା ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା ଉପରେ ଆଧାରିତ ହୋଇଥାଏ। ସର୍ତ୍ତାବଳୀ କେବଳ ପରିବେଶ ମଞ୍ଜୁରୀ ମଧ୍ୟରେ ସୀମିତ ନୁହେଁ, ସର୍ତ୍ତାବଳୀ ଗୁଡ଼ିକ ଲିଙ୍ଗ ଦଲିଲ୍ ଓ ଜମି ହସ୍ତାନ୍ତରୀକରଣ ରୁଚ୍ଛିପତ୍ରରେ ମଧ୍ୟ ସ୍ଥାନ ପାଇଥାଏ। ଏପରି ବିଚାରାଳୟର ସର୍ବ ମାନ୍ୟ ନିଷ୍ପତ୍ତି ଓ ଆଦେଶନାମା ଅଛି ଯାହା ସ୍ଥାନ ନିର୍ଦ୍ଦିଷ୍ଟରେ ବିଭିନ୍ନ ପ୍ରକାରର କାର୍ଯ୍ୟକଳାପ ପାଇଁ ଅନୁମତି ହାସଲ ଯଥା: ବାଲୁକା ଉତ୍ତୋଳନ, ଗଛ କାଟିବା, ସର୍ବସାଧାରଣପାଇଁ ଉଦ୍ଦିଷ୍ଟ ଜମିକୁ ଅନ୍ୟ କୌଣସି କାର୍ଯ୍ୟପାଇଁ ବ୍ୟବହାର ଇତ୍ୟାଦି କ୍ଷେତ୍ରରେ ଲାଗୁ ହୋଇଥାଏ। ଏହା ସମ୍ଭବ ଯେ ଆମେ ଅନୁଭବ କରୁଥିବା, ପ୍ରଭାବିତ ହେଉଥିବା ବା ଘଟୁଥିବା ସମସ୍ୟାର କାରଣ କୌଣସି ବ୍ୟକ୍ତି କୌଣସି ସ୍ଥାନରେ ଆଇନ୍ ବ୍ୟବସ୍ଥା କିମ୍ବା ନ୍ୟାୟିକ କିମ୍ବା ବିଚାରାଳୟର ନିର୍ଦ୍ଦେଶାବଳୀକୁ ପାଳନ ନ କରୁଥିବା ଯୋଗୁଁ ହୋଇଥାଏ। ଯଦି ଏପରି ହୋଇଥାଏ ତେବେ ଏପରି କାର୍ଯ୍ୟକଳାପକୁ ବାଧାଦେବା ପାଇଁ, ସର୍ତ୍ତାବଳୀ ପାଳନ ନ ହେଉଥିଲେ ଏହାର ତଦାରଖ ଏବଂ ତତ୍ସହିତ ପରିସ୍ଥିତିର ନିରାକରଣ ଓ ଦଣ୍ଡବିଧାନ ନିମନ୍ତେ ଆବଶ୍ୟକ ପଦକ୍ଷେପ ନେବାପାଇଁ ବିଧିବଦ୍ଧ ଭାବେ ଆନୁଷ୍ଠାନିକ ପଦ୍ଧତି ଓ ନିର୍ଦ୍ଦାରିତ ପ୍ରସାଗନିକ ସଂସ୍ଥାର ବ୍ୟବସ୍ଥା କରାଯାଇଅଛି। ଏପରି କିଛି ଦୃଷ୍ଟାନ୍ତ ଆମେ ଦେଖିବାକୁ ପାଏ ଯେଉଁଠାରେ ପ୍ରକଳର ପରିଶାପ ବେଆଇନ୍ ନହୋଇଥିଲେ ମଧ୍ୟ ଏହା ଦୈନନ୍ଦିନ ଜୀବନ ଯାପନକୁ ବାଧିତ କରୁଥିବ କିମ୍ବା ସ୍ଵଚ୍ଛ ବାୟୁ ଓ ଜଳ ପାଇବାରୁ ବଞ୍ଚିତ କରେ, ଏପରି କ୍ଷେତ୍ରରେ ଏଥିରେ ହସ୍ତକ୍ଷେପ କରି ସମସ୍ୟାର ସମାଧାନ ପାଇଁ ପ୍ରସାଗନିକ ଅଧିକାରୀଙ୍କ ଦୃଷ୍ଟି ଆକର୍ଷଣ କରାଯାଇପାରେ।

ଅଥଚ, ପ୍ରଭାବିତ ଜନସାଧାରଣ ଅନେକ ସ୍ଥଳରେ ଜାଣିନଥାନ୍ତି ଯେ ଆଇନ୍ ପ୍ରାବଧାନ ଅନୁପାଳନ ନ ହେଉଥିବା ଯୋଗୁଁ ସମସ୍ୟା ସୃଷ୍ଟି ହୋଇଥାଏ କିମ୍ବା ଏହାର ଆନୁଷ୍ଠାନିକ ପ୍ରତିକାର ବ୍ୟବସ୍ଥା ଉପଲବ୍ଧ। ଏପରି ହୋଇଥାଇପାରେ ଯେ, ଯଦି ବୈଧାନିକ ଆବଶ୍ୟକତାକୁ ପାଳନ କରାଯାଇଥାନ୍ତା ତେବେ ପ୍ରଥମତଃ ସମସ୍ୟା ସୃଷ୍ଟି ହୋଇନଥାନ୍ତା। ଏହା ନିଶ୍ଚିତ ନହେଲେ ମଧ୍ୟ ଏହା ଏକ ସମ୍ଭାବନା। ଉପୁଜିଥିବା ସମସ୍ୟା ଆଇନସମ୍ମତ କିମ୍ବା ନୁହେଁ ଏହାକୁ ଠିକ୍ ଭାବରେ ବୁଝିପାରିବା ସମସ୍ୟା ସମାଧାନର ପଛ ପାଇବାର ଏକ ପଦକ୍ଷେପ। ଏଥିପାଇଁ ଜଣେ ବ୍ୟକ୍ତିର ଓକିଲ ହେବାର ଯୋଗ୍ୟତା ଆବଶ୍ୟକ ନାହିଁ, ପିଟିସନ୍ ଲେଖିବା ଜ୍ଞାନ ଦରକାର ନାହିଁ କିମ୍ବା ଆଇନ୍ ଭାଷା କହି ଶିଖିବା ଦରକାର ନାହିଁ। ଭିନ୍ନ ଭିନ୍ନ ପରିବେଶ ସମ୍ପର୍କୀୟ ଓ ସାମାଜିକ ଜନଜୀବନକୁ ପ୍ରଭାବିତ କରୁଥିବା ସମସ୍ୟା ଗୁଡ଼ିକୁ ସମାଧାନ କରିବା ପାଇଁ ଯେଉଁସବୁ ଆଇନ୍ ଧାରା ଓ ଉପଯୁକ୍ତ ଅନୁଷ୍ଠାନ ବିଷୟରେ ମୌଳିକ ଜ୍ଞାନ ଆବଶ୍ୟକ ତାହା ଏହି ପୁସ୍ତିକାରେ ଆଲୋଚନା କରାଯାଇଅଛି।

One of the most critical components of such problem-solving with law (both in court and outside) is the requirement of evidence or proof. Once the problem is identified and defined and the affected party clarifies what remedy is being sought, community level legal practitioners would along with them need to prepare robust evidence to back the claims. For instance, if it were ascertained that a construction activity is being carried out in contravention to the provisions of any law, it would be important to gather specific evidence before filing a complaint or approaching a relevant institution. A range of documents can be included as proof of illegality, which includes government documents, responses to Right to Information (RTI), photographs, maps and complaint letters. One could also check if the information disclosed by the project proponent at the time of project appraisal was complete and true. Records of public hearing could also be checked to find out if they reflect the mentioned concerns.

This handbook is an attempt to present scenarios where community level environmental justice practitioners can apply and use law to work with affected communities and seek desired remedies through an administrative route. Each scenario presents a problem type, what the complaints could be and then goes on to suggest some legal clauses through which a remedy can be pursued. It draws from several cases currently being pursued by enviro legal coordinators associated with the Centre for Policy Research (CPR)-Namati Environmental Justice Program. It also draws from the resolutions being pursued by implementing partners like Janabhivayakti (Chhattisgarh) and Keonjhar Integrated Rural Development and Training Institute (KIRDTI) (Odisha).

There are two clear caveats while using this handbook:

- First, the legal clauses listed with the problem, are indicative in nature and do not claim to be exhaustive. This implies that it is advisable that practitioners using this handbook look out for additional legal remedies for the problem in hand, which may not be listed here.
- Second, we encourage practitioners to as far as possible share the legal knowledge with affected communities and try to jointly work towards seeking institutional response. This will encourage collective learning and help achieve legal empowerment through practice.

The handbook does not specifically list judicial and court related processes of any of these problems. In case the problem does not get resolved through the administrative route, affected people and community practitioners have the option of accessing avenues such as the National Green Tribunal (NGT) and courts. For this, the assistance of a lawyer is likely to be required. In such instances, the evidence collected, complaints filed and other documentation could form an important basis and support for any legal intervention.

ଆଇନ୍ ସାହାଯ୍ୟରେ (ଉଭୟ ଅଦାଲତ ମାଧ୍ୟମରେ ଓ ଅଦାଲତ ବାହାରେ) ସମସ୍ୟା ସମାଧାନର ଏକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ଅଂଶ ତଥ୍ୟ ଭିତ୍ତିକ ପ୍ରମାଣ । ସମସ୍ୟାର ଚିହ୍ନ ଓ ବାଣ୍ୟାକରଣ ଏବଂ ଏହାଦ୍ୱାରା ପ୍ରଭାବିତ ଜନସାଧାରଣ ଆଶାକରୁଥିବା ପ୍ରତିକାର ସ୍ୱଳ୍ପ କରିବାପରେ ଗୋଷ୍ଠୀ ସ୍ତରରେ କାର୍ଯ୍ୟରତ ଆଇନଜ୍ଞ ମାନେ ଜନସାଧାରଣଙ୍କର ସହ ଦାବୀକୁ ପରିପୁଷ୍ଟ କରିବା ପାଇଁ ଅକାନ୍ୟ ପ୍ରମାଣ ସଂଗ୍ରହ କରିବା ଉଚିତ୍ । ଉଦାହରଣ ସ୍ୱରୂପ, ଯଦି ଆଇନ୍ ପ୍ରାବଧାନକୁ ଉଲ୍ଲଙ୍ଘନ କରାଯାଇ କୌଣସି ନିର୍ମାଣ କାର୍ଯ୍ୟ ହେଉଥାଏ ତେବେ ଏହି ବେଆଇନ୍ କାମକୁ ପ୍ରତିହତ କରିବା ପାଇଁ ଅଭିଯୋଗ କରିବା କିମ୍ବା ଉପଯୁକ୍ତ ସଂସ୍ଥାପିତ ସଂସ୍ଥାର ଦୃଷ୍ଟି ଆକର୍ଷଣ ପୂର୍ବରୁ ତତ୍ସମ୍ପର୍କୀୟ ପ୍ରମାଣ ସଂଗ୍ରହ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ । ବେଆଇନ୍ କାର୍ଯ୍ୟକଳାପ ହେଉଥିବାର ପ୍ରମାଣ ସ୍ୱରୂପ ଅନେକ ଗୁଡ଼ିଏ ଦସ୍ତାବିଜକୁ ସମ୍ମିଳିତ କରାଯାଇପାରେ, ଯଥା- ସରକାରୀ ଦଲିଲ୍, ସୂଚନା ଅଧିକାର ଆଇନ୍ ବ୍ୟବହାରକରି ମଗାଯାଇଥିବା ତଥ୍ୟ, ଫଟୋ, ମାନଚିତ୍ର ଓ ଅଭିଯୋଗ ପତ୍ର । ଏହା ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପ ମୂଲ୍ୟାଙ୍କନ ସମୟରେ ପ୍ରକଳ୍ପ ପ୍ରସ୍ତାବକଙ୍କର ଦ୍ୱାରା ପରିପ୍ରକାଶ କରାଯାଇଥିବା ସୂଚନା ସୂର୍ଣ୍ଣ ଓ ସତ୍ୟ । ଆଲୋଚିତ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ବିଷୟ ଗୁଡ଼ିକ ଜନଶୁଣାଣୀର ଲିଖିତ ବିବରଣୀରେ ଠିକ୍ ରୂପେ ପ୍ରତିଫଳିତ ହୋଇଛି କି ନାହିଁ ତାହା ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ।

ଏହି ପୁସ୍ତିକାରେ ପ୍ରଶ୍ନାସନିକ ବ୍ୟବସ୍ଥାକୁ ମାଧ୍ୟମ କରି ଗୋଷ୍ଠୀ ସ୍ତରରେ ପରିବେଶ ନ୍ୟାୟ ପାଇଁ କାର୍ଯ୍ୟକରୁଥିବା ଆଇନଜ୍ଞମାନେ ଆଇନ୍ ସହାୟତାରେ ପ୍ରଭାବିତ ଜନସାଧାରଣଙ୍କର ସହ ମିଶି ଆବଶ୍ୟକୀୟ ପ୍ରତିକାର ପାଇଁ କିପରି କାର୍ଯ୍ୟ କରିପାରିବେ ତାହାର ଦୃଷ୍ଟାନ୍ତ ଭିନ୍ନ ଭିନ୍ନ ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ଉପସ୍ଥାପନ କରିଆରେ କରାଯାଇଅଛି । ପ୍ରତ୍ୟେକ ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ଏକ ନିର୍ଦ୍ଦିଷ୍ଟ ପ୍ରକାରର ସମସ୍ୟାକୁ ଉପସ୍ଥାପନକରି, ସେ ସମ୍ପର୍କୀୟ ଅଭିଯୋଗ ଏବଂ ଏହା ସହିତ ସମସ୍ୟାର ପ୍ରତିକାର ପାଇଁ ଆଇନ୍ କେଉଁ ଧାରା ବ୍ୟବହାର କରାଯିବ ସେ ବାବଦରେ ଅବଗତ କରୁଛି । ନମତି ଏନଭାଇରନ୍ମେଣ୍ଟ ଜଷ୍ଟିସ୍ ପ୍ରୋଗ୍ରାମ- ସେକ୍ଟର ଫର ପଲିସି ରିସର୍ଚ୍ଚ ସହ ସଂଶ୍ଳିଷ୍ଟ ପରିବେଶ ଆଇନ୍ ସଂଯୋଜକ ମାନେ ନିୟୋଜିତ ମାମଲା ଉପରେ ଏହା ଆଧାରିତ, ଛତିଶଗଡ଼ର ଜନଅଭିବ୍ୟକ୍ତି ଓ ଓଡ଼ିଶାର କିର୍ତ୍ତୀ ନିଆଯାଇଥିବା ଆନୁଷ୍ଠାନିକ ପ୍ରସ୍ତାବକୁ ମଧ୍ୟ ଏଥିରେ ଉପଯୋଗ କରାଯାଇଅଛି ।

ଏହି ପୁସ୍ତିକାକୁ ବ୍ୟବହାର କରିବା ସମୟରେ ଆମକୁ ଦୁଇଟି ବିଶେଷ ଦିଗ ପ୍ରତି ସତର୍କ ହେବାକୁ ହେବ ।

- ପ୍ରଥମତଃ, ସମସ୍ୟା ସହିତ ତାଲିକାଭୁକ୍ତ ଆଇନ୍ ଧାରାଗୁଡ଼ିକ ସୂଚକ ରୂପେ ଗ୍ରହଣ କରାଯିବ ଏବଂ ଏହା ସବିଶେଷ ବା ସୁମ୍ପର୍ଣ୍ଣ ନୁହେଁ । ପରିବେଶ ନ୍ୟାୟ ପାଇଁ କାର୍ଯ୍ୟ କରୁଥିବା ବ୍ୟକ୍ତି ଏହି ପୁସ୍ତିକାକୁ ବ୍ୟବହାର କରିବା ସମୟରେ ମନେରଖିବା ଉଚିତ୍ ଯେ କୌଣସି ସମସ୍ୟା ସମାଧାନ ପାଇଁ କେବଳ ଏଥିରେ ଦିଆଯାଇଥିବା ଆଇନ୍ ଧାରା ବ୍ୟତିରେକ ତାଙ୍କୁ ଅନ୍ୟାନ୍ୟ ନ୍ୟାୟିକ ପ୍ରତିବିଧାନ ବାବଦରେ ଚିନ୍ତା କରିବାକୁ ହେବ ।
- ଦ୍ୱିତୀୟତଃ, ସମସ୍ୟା ସମାଧାନ ଉଦ୍ଦେଶ୍ୟରେ ଆନୁଷ୍ଠାନିକ ଉଦ୍ୟମକୁ ପରିପୁଷ୍ଟ କରିବା ଲକ୍ଷ୍ୟରେ ପରିବେଶ ନ୍ୟାୟ ପାଇଁ କାର୍ଯ୍ୟ କରୁଥିବା ବ୍ୟକ୍ତି ବିଶେଷ ଯେତେଦୂର ସମ୍ଭବ ଆଇନ୍ ସମ୍ପର୍କୀୟ ଜ୍ଞାନକୁ ପ୍ରଭାବିତ ଜନସାଧାରଣଙ୍କର ସହ ଆଲୋଚନା କରିବା ଉଚିତ୍ । ଏହା ସାମୁହିକ ଜ୍ଞାନଲାଭ ଏବଂ ଏହା ପ୍ରୟୋଗ ମାଧ୍ୟମରେ ନ୍ୟାୟିକ ସଶକ୍ତିକରଣକୁ ପ୍ରୋତ୍ସାହନ ଯୋଗାଇବ ।

ଏହି ପୁସ୍ତିକା ଏଥିରେ ଆଲୋଚିତ ସମସ୍ୟାର ନ୍ୟାୟିକ ଓ ଅଦାଲତ ପ୍ରକ୍ରିୟା ବାବଦରେ ସୂଚନା ପ୍ରଦାନ କରୁନାହିଁ । ଯଦି ସମସ୍ୟାଟି ପ୍ରଶ୍ନାସନିକ ବ୍ୟବସ୍ଥା ମାଧ୍ୟମରେ ସମାଧାନ ହୋଇପାରୁନାହିଁ ତେବେ ପରିବେଶ ନ୍ୟାୟପାଇଁ କାର୍ଯ୍ୟକରୁଥିବା ବ୍ୟକ୍ତିବିଶେଷ ଜାତୀୟ ସବୁଜ ଟ୍ରିବୁନାଲ (ନ୍ୟାୟନାଲ୍ ଗ୍ରୀନ ଟ୍ରିବୁନାଲ୍-ଏନ୍‌ଜିଟି) ଓ ନ୍ୟାୟାଳୟର ସାହାଯ୍ୟ ନେଇପାରିବେ । ଏଥିପାଇଁ ପେସାଦାର ଓକିଲଙ୍କର ସାହାଯ୍ୟର ଆବଶ୍ୟକତା ଅଛି । ଏପରି କ୍ଷେତ୍ର, ସଂଗ୍ରହ କରାଯାଇଥିବା ପ୍ରମାଣ, ଦାଖଲ ହୋଇଥିବା ଅଭିଯୋଗ ପତ୍ର ଏବଂ ଅନ୍ୟାନ୍ୟ ଦଲିଲ୍ ନ୍ୟାୟିକ ହସ୍ତକ୍ଷେପ ପାଇଁ ଏକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ଆଧାର ରୂପେ ବିବେଚିତ ହେବ ।

SECTION I PROBLEM STATEMENT AND LEGAL REMEDY

[Note: An index of specific sections included in the scenarios below is available in Section II of this Handbook.]

SCENARIO 1

What is the complaint?

A group of people has approached a community worker to say that a mine near their village is pumping out water from a stream to use within a factory's premises. They do not know what the nature of the use within the premises is or whether or not the owners have permission to do this. For the last eight months or so, they have seen a pipeline constructed to draw this water. Since the same stream irrigates the rice fields in the area, they are worried that the water in the stream will get depleted and will not be available for cultivation. They say that they have already noticed some signs of the water flow being reduced, despite good rains in the current year.

Is a law being violated?

Mining, power generation or industrial operations require specific permissions to draw both surface as well as ground water. In the present case, since the water is being drawn from a stream, it will attract the legal provisions related to surface water. Each state may also have its own defined limits for drawing water for agriculture, domestic or industrial purposes, which would be important to ascertain.

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. Environment Impact Assessment (EIA) Notification, 2006: Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition of the environmental clearance letter.	1. State Environment Impact Assessment Authority (SEIAA) (if Category B project) 2. Ministry of Environment, Forest and Climate Change (MoEFCC) (if Category A project)	Section 2 Environmental clearance letters mention the amount of water required by the industry and the source. They would have a specific condition related to drawing of water and deterioration of water sources. They would also have a reference to the agency from whom permissions needs to be taken.

ଭାଗ ୧ ସମସ୍ୟାର ବିଧିବଦ୍ଧ ପରିପ୍ରକାଶ ଓ ନ୍ୟାୟିକ ପ୍ରତିକାର

(ସୂଚକ ସମ୍ପର୍କିତ ନିର୍ଦ୍ଦିଷ୍ଟ ଭାଗ ନ୍ୟାୟ ସମ୍ପର୍କିତ ପୁସ୍ତିକା ଭାଗ - ୨ ପରିପ୍ରକାଶ ପାଇଛି)

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

କିଛି ଲୋକ ତାଙ୍କର ଗ୍ରାମ ନିକଟରେ ଥିବା ଝରଣା/ଜଳସ୍ରୋତରୁ ଏକ କାରଖାନା ପତ୍ତ ସାହାଯ୍ୟରେ ଜଳ ଉତ୍ତୋଳନ କରି ଏହା କାରଖାନାରେ ବ୍ୟବହାର କରୁଥିବା ବିଷୟରେ ଗୋଷ୍ଠୀ ସମାଜକର୍ମୀଙ୍କୁ ଅବଗତ କରିଛନ୍ତି । ଗ୍ରାମବାସୀ କାରଖାନା କର୍ତ୍ତୃପକ୍ଷ କେଉଁ କାମରେ ଲଗାଇବା ପାଇଁ ଜଳଉତ୍ତୋଳନ କରୁଛନ୍ତି ଏବଂ ଏଥିପାଇଁ ତାଙ୍କ ପାଖରେ ଅନୁମତି ଅଛି କି ନାହିଁ ସେ ସମ୍ପର୍କରେ ଜାଣିନାହାନ୍ତି । ପ୍ରାୟ ଆଠମାସ ହେବ ସେମାନେ ଦେଖୁଛନ୍ତି ଯେ ଜଳ ପରିବହନ ପାଇଁ ପାଇପ ବିଛା କାମ ଚାଲୁରହିଛି । ଯେହେତୁ ଜଳସ୍ରୋତର ଜଳକୁ ଚାଷୀମାନେ ଧାନଚାଷ ପାଇଁ ବ୍ୟବହାର କରନ୍ତି ତେଣୁ ତାଙ୍କର ଆଶଙ୍କା ଯେ କାରଖାନା ପାଣିନେଲେ ସେମାନେ ଚାଷକାର୍ଯ୍ୟ ପାଇଁ ପାଣି ପାଇପାରିବେ ନାହିଁ । ସେମାନଙ୍କର କହିବା କଥା ଯେ ଗତ କିଛିଦିନ ମଧ୍ୟରେ ଚଳିତ ବର୍ଷ ଭଲ ବର୍ଷା ସତ୍ତ୍ୱେ ଜଳପ୍ରବାହର ମାତ୍ରା କମିଯାଇଥିବାର ସେମାନେ ଲକ୍ଷ୍ୟ କରିଛନ୍ତି ।

ଏଠାରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହେଉଛି କି?

ଖଣି, ବିଦ୍ୟୁତ୍ ଉତ୍ପାଦନ କିମ୍ବା, ଶିଳ୍ପ କାରଖାନାରେ ବ୍ୟବହାର ନିମନ୍ତେ ଉତ୍ତମ ଉତ୍ପୁଷ୍ଟ ଓ ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ କରିବା ପାଇଁ ବିଶେଷ ଅନୁମତି ନେବାର ଆବଶ୍ୟକତା ଅଛି । ଏଠାରେ ଉପସ୍ଥାପନ କରାଯାଇଥିବା ମାମଲାରେ ଯେହେତୁ ଜଳ ଝରଣାରୁ ନିଆଯାଇଛି ତେଣୁ ଉତ୍ପୁଷ୍ଟଜଳ ସମ୍ପର୍କିତ ଆଇନ୍‌ର ସହ ପାଳନ କରିବାକୁ ହେବ । ପ୍ରତ୍ୟେକ ରାଜ୍ୟ ଚାଷ କାର୍ଯ୍ୟ, ଘରୋଇ ବ୍ୟବହାର କିମ୍ବା କଳକାରଖାନା ପାଇଁ କେତେ ମାତ୍ରାରେ ଜଳର ବିନିଯୋଗ ହେବ ସେ ସମ୍ପର୍କରେ ନୀତି ନିର୍ଦ୍ଧାରଣ କରିଥାନ୍ତି ଯାହାକୁ କି ପ୍ରଥମେ ଦୃଷ୍ଟି ଦେବାକୁ /ବିଚାର କରିବାକୁ ହେବ ।

ଆଇନ୍	ସମ୍ପର୍କିତ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି ଅଧିକାର ଏବଂ ସମ୍ପତ୍ତି ସମ୍ପର୍କିତ ଆଇନ୍		
୧. ଏ ନଭାଇରନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ନୋଟିଫିକେସନ୍, ୨୦୦୬: ପ୍ରଥମେ ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଶିଳ୍ପ ସଂସ୍ଥା ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ ଯଦି ହଁ, ତେବେ ଦେଖିବାକୁ ହେବ ଯେ ପରିବେଶ ମଞ୍ଜୁରୀ ସର୍ତ୍ତାବଳୀର କୌଣସି ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତକୁ ଏହା ଉଲ୍ଲଙ୍ଘନ କରୁଛି କି ନାହିଁ ।	୧. ରାଜ୍ୟ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ (ଏନ୍‌ଭାଇରନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ଅଥରିଟି) ଯଦି ଏହା “ଖ” ଶ୍ରେଣୀ ପ୍ରକଳ୍ପ (“ବି” କାଟେଗୋରୀ ପ୍ରୋଜେକ୍ଟ) ହୋଇଥାଏ । ୨. ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ (Ministry of Environment Forest and Climate Change) ଯଦି ଏହା “କ” ଶ୍ରେଣୀ ପ୍ରକଳ୍ପ (“ଏ” କାଟେଗୋରୀ ପ୍ରୋଜେକ୍ଟ) ହୋଇଥାଏ ।	ଅନୁକ୍ଳେଦ- ୨ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଆବଶ୍ୟକ ଜଳର ପରିମାଣ ଏବଂ ଏହି ଜଳ କେଉଁ ଉତ୍ସରୁ ଅଣାଯିବ ସେ ବାବଦରେ ଉଲ୍ଲେଖ ଥାଏ । ଜଳ ଉତ୍ତୋଳନ କିଭଳି କରାଯିବ ଓ ଜଳଉତ୍ତୁ ଉପରେ ଏହାର ପ୍ରଭାବ କିପରି ସୀମିତ କରାଯିବ ସେ ବାବଦରେ ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତର ଉଲ୍ଲେଖ ଥାଏ । ଜଳ ଉତ୍ତୋଳନ ସମ୍ପର୍କିତ ଅନୁମତି କେଉଁ କର୍ତ୍ତୃପକ୍ଷଙ୍କର ଠାରୁ ଅଣାଯିବ ତାହା ଉଲ୍ଲେଖ ମଧ୍ୟ ଥାଏ ।

<p>2. Water (Prevention and Control of Pollution) Act, 1974: (under which consent to operate is sought, for which the project has to disclose the sources of water)</p>	<p>State Pollution Control Board (SPCB) or its nearest regional office</p>	<p>Section 26 (in case the company has not complied with conditions of the consent to operate)</p> <p>Section 33A whereby in case of any violation, the SPCB can give directions for closure or stopping water or electricity supply. Conditions of the consent to operate where specifics of the water source would be mentioned</p>
<p>Site specific laws</p>		
<p>3. Ecologically Sensitive Areas (ESAs), Critically Vulnerable Coastal Areas (CVCA), Critically Polluted Area, etc.: Check whether any special orders, notifications or guidelines have been issued to restrict the drawing of water in a notification for an ESA, CVCA, Critically Polluted Area, etc.</p>	<p>1. MoEFCC 2. ESA Management Committee 3. State Coastal Zone Management Authority (SCZMA) 4. Pollution Control Board (PCB)</p>	<p>1. Section 3 (2) (v) of the Environment (Protection) Act (EPA), 1986 2. Section 4 of the Coastal Regulation Zone (CRZ) Notification, 2011 3. Section 19 of the Air Act, 1981 or the Water Act, 1974</p>
<p>State specific Laws (example)</p>		
<p>4. Odisha Pani Panchayat Act, 2002: Check if the Panchayat has used its powers to imprison and/or levy a fine in case of any unlawful damage to the irrigation system</p>		<p>Section 23</p>

RELATED CONDITIONS IN AN ENVIRONMENTAL CLEARANCE LETTER OF A COAL MINE

- The project proponent shall obtain necessary prior permission of the competent authorities for drawl of the requisite quantity of surface water.
- Necessary prior clearance from the Central Ground Water Authority (CGWA) shall be obtained for working below the water level and for pumping of ground water.
- Rainwater harvesting and also other measures for conservation of water and augmentation of ground water resources shall be taken in consultation with the State Ground Water Board (SGWB).
- The project authority shall implement suitable conservation measures to augment ground water resources in the area in consultation with the Regional Director, Central Ground Water Board (CGWB).

<p>୨. ଜଳ (ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଅଧିନିୟମ ୧୯୭୪: ଟ୍ୱାର୍ଟର (ପ୍ରିଭେନ୍ସନ୍ ଏଣ୍ଡ କଣ୍ଟ୍ରୋଲ ଅଫ୍ ପଲ୍ୟୁସନ୍) ଆକ୍ଟ ୧୯୭୪ର ସଂଶୋଧନ ଅନୁଯାୟୀ ଅଧିନରେ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକ୍ରମ କରିବା ପାଇଁ ସମ୍ପୃକ୍ତ ଆବେଦନରେ ପ୍ରକଳ୍ପ କର୍ତ୍ତୃପକ୍ଷଙ୍କୁ ଜଳ ବ୍ୟବହାରର ଉତ୍ସ ବାବଦରେ ଉଲ୍ଲେଖ କରିବାକୁ ପଡ଼େ ।</p>	<p>ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ କିମ୍ବା ଏହାର ନିକଟସ୍ଥ ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ</p>	<p>ଅନୁକ୍ଳେଦ-୨୬(ଯଦି କାରଖାନା କର୍ତ୍ତୃପକ୍ଷ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକ୍ରମ କରିବା ନିମନ୍ତେ ସମ୍ପୃକ୍ତ ସର୍ତ୍ତାବଳୀର ପାଳନ କରିନଥିବେ)</p> <p>ଅନୁକ୍ଳେଦ-୩୩ “କ” (“ଏ”) ଯାହା ବଳରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହେତୁ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ବିଦ୍ୟୁତ୍ ଓ ଜଳଯୋଗାଣ ବନ୍ଦ କରିବା ପାଇଁ ନିର୍ଦ୍ଦେଶ ଜାରି କରିପାରିବେ</p>
<p>ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍</p>		
<p>୩. ଇସ୍ପ-ଏ, ସିଭିସି-ଏ, ସିଭିସିଆଇ: ଇସ୍ପ-ଏ, ସିଭିସି-ଏ, ସଙ୍କଟାପନ୍ନ ପ୍ରଦୂଷିତ ଅଞ୍ଚଳ ପାଇଁ ଜାରି ହୋଇଥିବା ବିଜ୍ଞପ୍ତିରେ ଜଳ ଉତ୍ତୋଳନକୁ ନିୟନ୍ତ୍ରଣ କରିବା ପାଇଁ କୌଣସି ବିଶେଷ ଆଦେଶ, ବିଜ୍ଞପ୍ତି କିମ୍ବା ନୀତିନିୟମର ଉଲ୍ଲେଖ ଅଛି କି ?</p>	<p>୧. ପରିବେଶ, ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ ୨. ଇ.ସ୍ପ-ଏ ମ୍ୟାନେଜମେଣ୍ଟ କମିଟି । ୩. ଷ୍ଟେଟ୍ କୋଷ୍ଟାଲ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟି ୪. ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ</p>	<p>୧. ଅନୁକ୍ଳେଦ-୩ (୨) “ଉ” ଏନଭାଇରନ୍ମେଣ୍ଟ ପଲ୍ୟୁସନ୍ ଆକ୍ଟ ୧୯୮୬ ୨. ଅନୁକ୍ଳେଦ-୪ କୋଷ୍ଟାଲ ରେଗୁଲେସନ୍ କୋନ୍ ନୋଟିଫିକେସନ୍, ୨୦୧୧ ୩. ଅନୁକ୍ଳେଦ-୧୯, ଏଆର ଆକ୍ଟ, ୧୯୮୧ କିମ୍ବା ଟ୍ୱାର୍ଟର ଆକ୍ଟ, ୧୯୭୪</p>
<p>ନିର୍ଦ୍ଦିଷ୍ଟ ରାଜ୍ୟର ଆଇନ୍ (ଉଦାହରଣ)</p>		
<p>୪. ଓଡ଼ିଶା ପାଣିପଞ୍ଚାୟତ ଅଧିନିୟମ ୨୦୦୨: ଜଳସେଚନ ବ୍ୟବସ୍ଥା କିମ୍ବା ଜଳସ୍ରୋତରେ ହାନି ସୃଷ୍ଟି ହେଲେ ପଞ୍ଚାୟତ କରିମାନା ଆଦାୟ କରିପାରିବ ।</p>		<p>ଧାରା ୨୩</p>

କୋଇଲାଖଣି ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ ଏ ସମ୍ପର୍କୀତ ସର୍ତ୍ତାବଳୀ

- ଆବଶ୍ୟକୀୟ ଭୂପୃଷ୍ଠଜଳ ଉତ୍ତୋଳନ ପାଇଁ ପ୍ରକଳ୍ପ ପ୍ରସ୍ତାବକ ସମ୍ପର୍କ କର୍ତ୍ତୃପକ୍ଷଙ୍କଠାରୁ ପୂର୍ବ ଅନୁମତି ପ୍ରାପ୍ତ କରିବେ ।
- ଜଳସ୍ତରଠାରୁ ନିମ୍ନ ସ୍ତରରେ ଖଣି କାର୍ଯ୍ୟକରିବା ପାଇଁ ଏବଂ ଭୂତଳ ଜଳକୁ ପମ୍ପ ମାଧ୍ୟମରେ ଉତ୍ତୋଳନ କରିବା ପାଇଁ ଆବଶ୍ୟକୀୟ ପୂର୍ବ ଅନୁମତି କେନ୍ଦ୍ରୀୟ ଭୂତଳ ଜଳ କର୍ତ୍ତୃପକ୍ଷ (ସେଣ୍ଟ୍ରାଲ ଗ୍ରାଉଣ୍ଡୱାଟର ଅଥରିଟି)ଙ୍କର ଠାରୁ ଆଣିବାକୁ ହେବ ।
- ରାଜ୍ୟ ଭୂତଳ ଜଳ କର୍ତ୍ତୃପକ୍ଷ (ଷ୍ଟେଟ୍ ଗ୍ରାଉଣ୍ଡୱାଟର ଅଥରିଟି/ କେନ୍ଦ୍ରୀୟ ଭୂତଳ ଜଳ କର୍ତ୍ତୃପକ୍ଷ (ସେଣ୍ଟ୍ରାଲ ଗ୍ରାଉଣ୍ଡୱାଟର ଅଥରିଟି)ଙ୍କର ସହ ପରାମର୍ଶ କରି ଭୂତଳ ଜଳଉତ୍ସକୁ ପରିପୁଷ୍ଟ କରିବା ପାଇଁ ବର୍ଷାଜଳ ସଂରକ୍ଷଣ କିମ୍ବା ଅନ୍ୟାନ୍ୟ ଜଳସଂରକ୍ଷଣ ପଦକ୍ଷେପ ଗ୍ରହଣ କରାଯିବ ।
- ପ୍ରକଳ୍ପ କର୍ତ୍ତୃପକ୍ଷ ଆଞ୍ଚଳିକ ନିର୍ଦ୍ଦେଶକ, କେନ୍ଦ୍ରୀୟ ଭୂତଳ ଜଳ ବୋର୍ଡଙ୍କର ସହ ପରାମର୍ଶ କରି ଭୂତଳ ଜଳଉତ୍ସକୁ ପରିପୁଷ୍ଟ କରିବା ପାଇଁ ଉପଯୁକ୍ତ ପଦକ୍ଷେପ କାର୍ଯ୍ୟକାରୀ କରିବେ ।

SCENARIO 2

What is the complaint?

Villagers have approached a paralegal with the complaint that common village land has been leased out for mining to private companies. The residents of the villages have been using this land for grazing their cattle for three generations. From a written response they received from the District Collector's office, it appears that several small mining leases have been issued, parceling the grazing land. If these lands are lost, the villagers will not be able to continue their livestock related livelihoods, as the land for grazing will be lost.

Is a law being violated?

The first question that needs to be asked here is if there is a national or state specific law or government department or agency which governs the use of common village lands. It is based on this information that the next steps can be planned. The location of the grazing land may also attract other site specific laws.

Law	Corresponding Institutions/ Officials	Section/Clause
Court judgments and Administrative Procedures		
1. SC Judgment (dated 28.01.11) in Civil Appeal No. 1132/2011 @ SLP(C) No. 3109/2011: Related to the protection of common lands	1. State Government (Development Commissioner) 2. Sarpanch/ Head of Panchayat	Directions to the State Governments to evict illegal occupants of common village lands under the Panchayat Directions restricting conversion of common lands to other purposes
2. State Panchayat Act: Check whether the Panchayat has any special powers to protect common village lands under its jurisdiction	Sarpanch/Head of Panchayat	Each state has its own Panchayat Act
Permissions, Rights and Consents related laws		
3. No Objection Certificate (NOC) from the Panchayat: Check whether an NOC has been sought from the concerned Panchayat	Sarpanch/Head of Panchayat	Each state has its own Panchayat Act

ପରିକଳ୍ପିତ କ୍ଷେତ୍ରାବଳୀ ୨

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଗ୍ରାମବାସୀ ଗ୍ରାମର ସର୍ବସାଧାରଣ ଜମିକୁ ଏକ ବେସରକାରୀ କମ୍ପାନୀ ଖଣିଖନନ ପାଇଁ ଲିଜ୍ ଦିଆଯାଇଥିବା ବିଷୟରେ ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକଙ୍କୁ ଅବଗତ କଲେ । ତିନିପୁରୁଷ ହେଲା ଗ୍ରାମବାସୀ ସେହି ଜମିରେ ଗାଇଗୋରୁଙ୍କୁ ଚରାଇଆସୁଛନ୍ତି । ଜିଲ୍ଲା କଲେକ୍ଟର କାର୍ଯ୍ୟାଳୟରୁ ମିଳିଥିବା ଲିଖିତ ଜବାବରୁ ଏହା ଜଣାପଡୁଛି ଯେ ଗ୍ରାମର ଚାରଣଭୂମିକୁ ଭାଗ ଭାଗ କରି ଛୋଟ ଛୋଟ ଖଣି ଲିଜ୍ ଆକାରରେ ପ୍ରଦାନ କରାଯାଇଅଛି । ଯଦି ଏହି ଜମି ଗ୍ରାମବାସୀଙ୍କ ହାତରୁ ଚାଲିଯାଏ ତେବେ ଗ୍ରାମବାସୀ ପଶୁପାଳନ ଉପରେ ନିର୍ଭରଶୀଳ ଜୀବିକା ନିର୍ବାହ କରିପାରିବେ ନାହିଁ କାରଣ ଚାରଣଭୂମି ସବୁଦିନ ପାଇଁ ତାଙ୍କ ହାତରୁ ଚାଲିଯିବ ।

ଏଠାରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହୋଇଛି କି ?

ପ୍ରଥମ ପ୍ରଶ୍ନ ହେଉଛି ଗ୍ରାମର ସର୍ବସାଧାରଣ ଜମିର ବିଧିସଙ୍ଗତ ବ୍ୟବହାର ସମ୍ପର୍କିତ ଜାତୀୟ କିମ୍ବା ରାଜ୍ୟ ସ୍ତରରେ କୌଣସି ନିର୍ଦ୍ଦିଷ୍ଟ ଆଇନ୍ ଅଛି କି ? ଉପରୋକ୍ତ ପ୍ରଶ୍ନର ଉତ୍ତରକୁ ଆଧାରକରି ପରବର୍ତ୍ତୀ ପଦକ୍ଷେପର ଯୋଜନା ପ୍ରସ୍ତୁତ କରାଯିବ । ଚାରଣ ଭୂମିର ଛିତି, ଅନ୍ୟାନ୍ୟ ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍ ଲାଗୁ ହେବ କି ନାହିଁ ତାହା ନିର୍ଦ୍ଧାରଣ କରିବ ।

ଆଇନ୍	ସମ୍ପର୍କୀତ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅଦାଲତ ନିଷ୍ପତ୍ତି ଓ ପ୍ରସାଶନିକ କାର୍ଯ୍ୟପଦ୍ଧତି		
୧. ସୁପ୍ରିମ କୋର୍ଟ ନିଷ୍ପତ୍ତି (ତା. ୨୮.୦୧.୧୧) ସିଭିଲ ଅପିଲ ନଂ. ୧୧୩୨/୨୦୧୧ ଏସ୍. ଏଲ୍.ସି. (ସି) ନଂ. ୩୧୦୯/ ୨୦୧୧: ସର୍ବସାଧାରଣ ଜମି ସୁରକ୍ଷା ବିଷୟକ	୧. ରାଜ୍ୟ ସରକାର (ଉନ୍ନୟନ କମିଶନର) ୨. ସରପଞ୍ଚ / ପଞ୍ଚାୟତ ମୁଖ୍ୟ	ଗ୍ରାମ ପଞ୍ଚାୟତର ସର୍ବ ସାଧାରଣ ଭୂମି ବେଆଇନ୍ ଭାବେ ଦଖଲ ହୋଇଥିଲେ ଜମିରୁ ଉଚ୍ଛେଦ ପାଇଁ ରାଜ୍ୟ ସରକାରଙ୍କୁ ନିର୍ଦ୍ଦେଶ ସର୍ବସାଧାରଣ ଭୂମିକୁ ଅନ୍ୟ କୌଣସି କାମ ପାଇଁ ବ୍ୟବହାରକୁ ବାରଣ କରି ନିର୍ଦ୍ଦେଶ କରି
୨. ରାଜ୍ୟ ପଞ୍ଚାୟତ ଆଇନ୍: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପଞ୍ଚାୟତର ପରିସର ଭୂକ୍ତ ସର୍ବସାଧାରଣ ଭୂମିକୁ ସୁରକ୍ଷା ପ୍ରଦାନ ଉଦ୍ଦେଶ୍ୟରେ ପଞ୍ଚାୟତକୁ ବିଶେଷ କ୍ଷମତା ଦିଆଯାଇଛି କି ନାହିଁ	ସରପଞ୍ଚ/ପଞ୍ଚାୟତ ମୁଖ୍ୟ	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ୍ ଅଛି
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କିତ ଆଇନ୍		
୩. ପଞ୍ଚାୟତର ନିର୍ଦ୍ଦିଷ୍ଟ (ନେ । ଅବକେଶ୍ଚନ୍): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଏହା ପଞ୍ଚାୟତ ଠାରୁ ନିର୍ଦ୍ଦିଷ୍ଟ ପତ୍ର (ନୋ ଅବକେଶ୍ଚନ୍ ସାର୍ଟିଫିକେଟ) ପାଇଛି ନା ନାହିଁ	ସରପଞ୍ଚ / ପଞ୍ଚାୟତ ମୁଖ୍ୟ	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ୍ ଅଛି

Site specific laws		
<p>4. Coastal Regulation Zone (CRZ) Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zone(s)</p>	<p>1. SCZMA 2. District Level Coastal Committee (DLCC) (under the District Collector)</p>	<p>Section 3; Section 4 and Section 7</p>
<p>5. ESA: Check whether any special orders, notifications or guidelines have been issued to protect or conserve this area, or restrict activity like ESA,</p>	<p>1. MoEFCC 2. ESA Management Committee</p>	<p>Section 3 (2) (v) of the EPA, 1986</p>

ସ୍ଥାନ ବିଶେଷକ ଆଇନ		
<p>୪. କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ ଜୋନ୍ ସିଆରଜେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ କାର୍ଯ୍ୟଟି କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ ଜୋନ୍ ମଧ୍ୟରେ ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ ।</p>	<p>୧. ରାଜ୍ୟର ରାଜଧାନୀରେ ସ୍ଥାନିତ ଷ୍ଟେଟ୍ କୋଷ୍ଠାଳ ଜୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟିଜ୍ (ସିଜେଡ୍‌ଏମ୍‌ଏ) । ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କର ଅଧିନସ୍ଥ District ଲେଭେଲ କୋଷ୍ଠାଳ କମିଟି ।</p>	<p>ଅନୁଚ୍ଛେଦ-୩, ଅନୁଚ୍ଛେଦ-୪ ଏବଂ ଅନୁଚ୍ଛେଦ-୫</p>
<p>୫. ଇଏସଏ : ଏହି ଅଞ୍ଚଳକୁ ସୁରକ୍ଷା ଦେବା ପାଇଁ ଏହାର ସଂରକ୍ଷଣ ପାଇଁ କିମ୍ବା ହାନିକାରକ କାର୍ଯ୍ୟକଳାପକୁ ନିୟନ୍ତ୍ରଣ କରିବା ପାଇଁ ବିଶେଷ ବିଜ୍ଞପ୍ତି, ଆଦେଶ କିମ୍ବା ନୀତିନିୟମ ଅଛି କି ନାହିଁ</p>	<p>୧. ପରିବେଶ ଜଙ୍ଗଲ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହଶାଳୟ । ୨. ଇଏସଏ ମ୍ୟାନେଜମେଣ୍ଟ କମିଟି</p>	<p>ଏନ୍‌ଭାଇରନ୍‌ମେଣ୍ଟ ପ୍ରୋଟେକସନ୍ ଆକ୍ଟ ୧୯୮୬ର ଅନୁଚ୍ଛେଦ ୩ (୨) “ଭି”</p>

SCENARIO 3

What is the complaint?

A paralegal is approached by a few representatives of the fishing community with news that a railway line is being constructed across an inter-tidal area. They have witnessed that the construction of the railway line involves bunding and filling up of the creek with mud. This is going to impact the flow of water and thereby the availability of fish. It will also impact their undeterred access to the creek and inter-tidal area. They have only seen local contractors working in the area who are not very forthcoming with information or open to dialogue.

Is a law being violated?

The construction of a railway line in a coastal area is likely to require some legal and statutory permissions before which construction activity can be initiated. These could either be site specific permissions or those which are applicable to railway lines irrespective of their location. There are some questions, which would need to be asked with regard to legality of the construction.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୩

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ମହ୍ୟକୀର୍ତ୍ତି ଗୋଷ୍ଠୀର କେତେ ପ୍ରତିନିଧି ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକଙ୍କୁ ଅର୍ଦ୍ଧକୁଆର ଅଞ୍ଚଳ ମଧ୍ୟଦେଇ ରେଳଲାଇନ୍ ତିଆରି ହେଉଥିବାର ଖବର ଦେଲେ । ସେମାନେ ଜାଣିଛନ୍ତି ଯେ ରେଳ ଲାଇନ୍ ତିଆରି ପାଇଁ ବନ୍ଧ ନିର୍ମାଣ କରାଯିବ ଏବଂ ସଂକୀର୍ଣ୍ଣ ଉପସାଗରକୁ ମାଟି ସାହାଯ୍ୟରେ ଘୋଡାଯିବ ଯାହା ଫଳରେ ଜଳସ୍ରୋତ ପ୍ରଭାବିତ ହେବା ଯୋଗୁଁ ମାଛ କମ୍ ଉପଲବ୍ଧ ହେବ । ଏହା ମଧ୍ୟ ଅର୍ଦ୍ଧକୁଆର ଅଞ୍ଚଳ ଓ ଉପସାଗର ଅଞ୍ଚଳକୁ ସେମାନଙ୍କର ଅବିଚଳିତ ପ୍ରବେଶକୁ ଅବରୋଧ କରିବ । ସେ ଅଞ୍ଚଳରେ କିଛି ଠିକାଦାର ସେଠାରେ କାମ କରୁଥିବାର ସେମାନେ ଦେଖିଛନ୍ତି ଯେଉଁମାନେ କି ଏ ବିଷୟରେ କୌଣସି ସୂଚନା ଦେବା ପାଇଁ କିମ୍ବା ଆଲୋଚନା କରିବା ପାଇଁ ନିଜ ଆଡୁ ଆଗ୍ରହ ପ୍ରକାଶ କରୁନାହାନ୍ତି ।

ଏଠାରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହେଉଛି କି ?

ସମୁଦ୍ର ଉପକୂଳ ଅଞ୍ଚଳରେ ରେଳଲାଇନ୍ ତିଆରି କରାଗଲେ ନିର୍ମାଣ କାର୍ଯ୍ୟ ଆରମ୍ଭ ହେବା ପୂର୍ବରୁ କେତେକ ଆଇନଗତ ଓ ବୈଧାନିକ ଅନୁମତି ନେବା ଆବଶ୍ୟକ । ଏହା ରେଳଲାଇନ୍ ନିର୍ମାଣ କରାଯାଇଥିବା ସ୍ଥାନ ବିଶେଷ ଆଧାରିତ ଅନୁମତି କିମ୍ବା ସ୍ଥାନ ନିର୍ଦ୍ଦିଷ୍ଟରେ ରେଳ ଲାଇନ୍ ନିର୍ମାଣପାଇଁ ଅନୁମତି ହୋଇପାରେ । ରେଳଲାଇନ୍ ନିର୍ମାଣର ବୈଧତା ପ୍ରସଙ୍ଗରେ କେତେଗୁଡ଼ିଏ ପ୍ରଶ୍ନ ଉପସ୍ଥାପନ କରାଯାଇପାରେ ।



Photo credit: Kanchi Kohli / ଫଟୋ ଡିଡ୍ ଶ୍ରେୟ: କାଞ୍ଚି କୋହିଲି

Law	Corresponding Institutions/Officials	Section/Clause
Site specific laws		
1. CRZ Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zones	1. SCZMA 2. DLCC (under the District Collector)	Section 3; Section 4 and Section 7
2. Forest (Conservation) Act (FCA), 1980: Check whether the construction is being carried out on forest land and if permission for forest diversion is required	1. Divisional Forest Officer 2. MoEFCC (Regional and New Delhi office)	Section 2
3. Wildlife (Protection) Act (WLPA), 1972: Check whether the activity is being carried out around an area declared as protected under the WLPA (e.g. National Park, Sanctuary, etc.)	1. Divisional Forest Officer (Wildlife) 2. Conservator of Forests (Wildlife) 3. State Board for Wildlife (SBWL)	Section 29 and; Section 35 (6)
4. ESA, CVCA or Critically Polluted Area: Check whether any special orders, notifications or guidelines have been issued to protect or conserve this area or restrict activity under the declaration of an ESA, CVCA or a Critically Polluted Area	1. MoEFCC 2. CZMA 3. PCB	1. Section 3 (2) (v) of the EPA, 1986 2. Section 4 of the CRZ Notification, 2011 3. Section 19 of the Air Act, 1981 or the Water Act, 1974
Permissions, Rights and Consents related laws		
5. NOC from the Panchayat or Municipality: Check whether an NOC has been sought from the concerned Panchayat or Municipality	1. Sarpanch/Head of Panchayat 2. Elected Municipal Corporator/Municipal Commissioner	Each state has its own Panchayat Act
6. CRZ Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zone(s)	1. SCZMA 2. DLCC(under the District Collector)	Section 3; Section 4 and Section 7
7. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006): Check whether there are any pending individual or community forest rights claims and if the consent of a Gram Sabha has been sought prior to forest diversion	1. Forest Rights Committee 2. Gram Panchayat 3. District Collector	3.8.2009 circular issued by MoEFCC

ଆଇନ୍	ସମ୍ପର୍କିତ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୧. କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ କୋନ୍ (ସିଆରଜେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରି ଦେଖ ଏହି କାର୍ଯ୍ୟକ୍ରମ କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ କୋନ୍ରେ ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ।	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ସ୍ଥାନିତ ଷ୍ଟେଟ କୋଷ୍ଠାଳ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟି (ସିଜେଡ୍-ଏମ୍-ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କ ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ତରୀୟ କୋଷ୍ଠାଳ କମିଟି	ଅନୁକ୍ଳେଦ-୩ ଅନୁକ୍ଳେଦ-୪ ଏବଂ ଅନୁକ୍ଳେଦ-୭
୨. ଫରେଷ୍ଟ କନ୍‌ଜରଭେସନ୍ ଆକ୍ଟ ୧୯୮୦ (ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍, ୧୯୮୦): ନିର୍ମାଣ କାର୍ଯ୍ୟ ଜଙ୍ଗଲ ଭୂମିରେ ହେଉଛି କି ନାହିଁ ଏବଂ ଜଙ୍ଗଲ କମି ବ୍ୟବହାର ପାଇଁ ପରିବର୍ତ୍ତନ ଅନୁମତି ଆବଶ୍ୟକ କି?	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ (ଡିଭିଜନାଲ ଫରେଷ୍ଟ ଅଫିସର) ୨. ପରିବେଶ ଓ ଜଙ୍ଗଲ ମନ୍ତ୍ରଣାଳୟ (ଆଞ୍ଚଳିକ ଓ ନୂଆଦିଲ୍ଲୀ କାର୍ଯ୍ୟାଳୟ)	ଫରେଷ୍ଟ କନ୍‌ଜରଭେସନ୍ ଆକ୍ଟ ୧୯୮୦ର ଅନୁକ୍ଳେଦ - ୨
୩. ବନ୍ୟଜନ୍ତୁ ସଂରକ୍ଷଣ ଆଇନ୍, ୧୯୭୨ (ବ୍ଲାକ୍‌ଲିଟ୍ ଲାଇଫ୍ ପ୍ରୋଟେକସନ୍ ଆକ୍ଟ - ଡବ୍ଲୁଏଲ୍ ପିଏ ୧୯୭୨): ବନ୍ୟଜନ୍ତୁ ସଂରକ୍ଷଣ ଆଇନ୍ ଅନୁଯାୟୀ ସଂରକ୍ଷଣ ଅଞ୍ଚଳ ହିସାବରେ ଘୋଷଣା କରାଯାଇଥିବା ଅଞ୍ଚଳରେ କାର୍ଯ୍ୟ ହେଉଛି କି ନାହିଁ (କାର୍ତ୍ତାୟ ପ୍ରାଣୀ ଉଦ୍ୟାନ ପଶୁପକ୍ଷୀଙ୍କ ପାଇଁ ସଂରକ୍ଷିତ ସ୍ଥାନ ଇତ୍ୟାଦି)	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ (ବନ୍ୟଜନ୍ତୁ) ୨. ବନ ସଂରକ୍ଷକ (ବନ୍ୟଜନ୍ତୁ) ୩. ଷ୍ଟେଟ୍ ବୋର୍ଡ୍ ଫର ବ୍ଲାକ୍‌ଲିଟ୍ ଲାଇଫ୍ (ଏସ୍ ବିଡ୍‌ବ୍ଲୁ ଏଲ୍)	ଏନ୍‌ଡାଇରନ୍‌ମେଣ୍ଟ ପଲ୍ୟୁସନ୍, ଆକ୍ଟ ୧୯୮୨ର ଅନୁକ୍ଳେଦ-୩ (୨) ଭି
୪. ଇଏସ୍‌ଏ, ସିଭିସିଏ, ସିଭିପିଆଇ: ଇଏସ୍‌ଏ ସିଭିସିଏ, ସଙ୍କଟାପନ୍ନ ପ୍ରଦୂଷିତ ଅଞ୍ଚଳ ଓ ସେହିପରି ସ୍ଥାନରେ କାର୍ଯ୍ୟକଳାପକୁ ନିୟନ୍ତ୍ରଣ କରିବା ପାଇଁ ଏବଂ ସେସବୁ ଅଞ୍ଚଳକୁ ସୁରକ୍ଷା ଦେବାପାଇଁ ଓ ସଂରକ୍ଷଣ ପାଇଁ ବିଶେଷ ଆଦେଶ ବିଜ୍ଞପ୍ତି ଓ ନୀତିନିୟମ ଜାରି ହୋଇଛି କି ନାହିଁ	୧. ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରଣାଳୟ ୨. କୋଷ୍ଠାଳ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟି। ୩. ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ୍	୧. ଏନ୍‌ଡାଇରନ୍‌ମେଣ୍ଟ ପଲ୍ୟୁସନ୍ ଆକ୍ଟ ୧୯୮୬ର ଅନୁକ୍ଳେଦ ୩(୨) ଭି ୨. ସିଆରଜେଡ୍ ନୋଟିଫିକେସନ୍ ୨୦୧୧ର ଅନୁକ୍ଳେଦ - ୪ ୩. ଏଆର ଆକ୍ଟ ୧୯୮୧ କିମ୍ବା ବ୍ଲାଟ୍ ଆକ୍ଟ, ୧୯୭୪ର ଅନୁକ୍ଳେଦ - ୧୯
ଅନୁମତି, ଅଧିକାର ଓ ସମ୍ପତ୍ତି ସମ୍ପର୍କିତ ଆଇନ୍		
୫. ପଞ୍ଚାୟତ କିମ୍ବା ମ୍ୟୁନିସିପାଲିଟିର ନିର୍ବିରୋଧ (ନୋ-ଅବଜେକସନ୍): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ସଂପୃକ୍ତ ପଞ୍ଚାୟତ କିମ୍ବା ମ୍ୟୁନିସିପାଲିଟିରୁ ନିର୍ବିରୋଧ ପ୍ରମାଣ ପତ୍ର (ନୋ ଅବଜେକସନ୍ ସାର୍ଟିଫିକେଟ୍) ଅଣାଯାଇଛି କି ନାହିଁ।	୧. ସରପଞ୍ଚ/ପଞ୍ଚାୟତ ମୁଖ୍ୟ ୨. ନିର୍ବାଚିତ ମ୍ୟୁନିସିପାଲ୍ କର୍ପୋରେଟର/ ମ୍ୟୁନିସିପାଲ୍ କମିଶନର	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ୍ ଅଛି
୬. କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ କୋନ୍ (ସିଆରଜେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ କୌଣସି ସିଆରଜେଡ୍ରେ ଏହା ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ।	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥାପିତ ଷ୍ଟେଟ୍ କୋଷ୍ଠାଳ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟି (ସିଜେଡ୍-ଏମ୍-ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କ ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ତରୀୟ କୋଷ୍ଠାଳ କମିଟି	ଅନୁକ୍ଳେଦ - ୩, ଅନୁକ୍ଳେଦ - ୪ ଏବଂ ଅନୁକ୍ଳେଦ-୭
୭. ଜଙ୍ଗଲ ଅଧିକାର ଆଇନ୍, ୨୦୦୬ (ଫରେଷ୍ଟ ରାଇଟ୍‌ସ୍ ଆକ୍ଟ ୨୦୦୬): ବ୍ୟକ୍ତି ଜଙ୍ଗଲ ଅଧିକାର ଦାବୀ କିମ୍ବା ଗୋଷ୍ଠୀ ଜଙ୍ଗଲ ଅଧିକାର ଦାବୀ ବାବଦରେ ଫାଇସଲା ହୋଇଛି ନା ନାହିଁ ଏବଂ ଜଙ୍ଗଲ କମି ଅଣଜଙ୍ଗଲ କାର୍ଯ୍ୟ ପାଇଁ ବ୍ୟବହାର ନିମନ୍ତେ ଗ୍ରାମସଭାର ସମ୍ମତି ନିଆଯାଇଛି କି ନାହିଁ।	୧. ଜଙ୍ଗଲ ଅଧିକାର କମିଟି ୨. ଗ୍ରାମ ପଞ୍ଚାୟତ ୩. ଜିଲ୍ଲା କଲେକ୍ଟର	ପରିବେଶ, ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରଣାଳୟ ଦ୍ୱାରା ୩.୮.୨୦୦୯ରେ ଜାରି କରାଯାଇଥିବା ଆଦେଶ ପତ୍ର

SCENARIO 4

What is the complaint?

During a visit to a local village, the grassroots legal advocate or community paralegal took a walk to a river adjoining the stream. The villagers had been inviting her to come there because they had noticed that a pipeline had been regularly dumping foul smelling effluent into the river. While the pipeline had been constructed a year back, the villagers had only begun noticing its impact recently when their customers rejected the fish catch, finding that it tasted of chemicals. The discharge had not smelled earlier and this had been only a recent occurrence over the last three months or so.

Is a law or legal condition being violated?

In the present scenario it would first need to be understood if the pipeline is attached to any industry or effluent treatment facility. If yes, then does the industry or the facility have the necessary permissions related to the discharging effluent in the river? If there is a permission, then what is the allowed quantum of discharge and is to be treated or untreated?



ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୪

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଆଖପାଖର ଗ୍ରାମକୁ ଯାତ୍ରା କରିବା ଅବସରରେ ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକ କିମ୍ବା ଭୂମିମୂଳ ସ୍ତରରେ କାର୍ଯ୍ୟକରୁଥିବା ଜଣେ ଆଇନଜୀବି ଗ୍ରାମର ଝରଣା ସନ୍ନିକଟ ଏକ ନଦୀକୁ ବୁଲିବାକୁ ଯାଇଛନ୍ତି । କିଛିଦିନ ହେଲା ଗ୍ରାମବାସୀମାନେ ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକଙ୍କୁ ତାଙ୍କର ଗ୍ରାମକୁ ବୁଲିଯିବା ପାଇଁ ଅନୁରୋଧ କରି ଆସୁଛନ୍ତି କାରଣ ସେମାନେ ଦେଖୁଛନ୍ତି ଯେ ପାଇପ୍ ଡ୍ୱାରା କାରଖାନାର ଆବର୍ଜନା ନିୟମିତ ଭାବେ ନଦୀକୁ ଛଡ଼ାଯାଉଅଛି । ଯଦିଓ ପାଇପ୍ ଲାଇନ୍ ନିର୍ମାଣ ଏକବର୍ଷ ପୂର୍ବରୁ ହୋଇଛି ତଥାପି ଏହାର କୁପ୍ରଭାବ ଗ୍ରାମବାସୀ ଜାଣିବାକୁ ପାଇଲେ ଯେତେବେଳେ ଗ୍ରାହକମାନେ ସେମାନେ ବିକୃପିତ ମାଛର ରାସାୟନିକ ପଦାର୍ଥ ଯୁକ୍ତ ସ୍ୱାଦ ଅଛି ବୋଲି କହିଲେ । ନିର୍ଗତ ପଦାର୍ଥ ପୂର୍ବରୁ ଗନ୍ଧ ହୋଇନଥିଲା କିନ୍ତୁ ପାଖପାଖି ୩ ମାସ ହେବ ଦୁର୍ଗନ୍ଧ ଅନୁଭବ ହେଉଛି ।

ଆଇନ୍ ଭଲଘଂନ ହେଉଛି କି ?

ଏହି ପରିସ୍ଥିତିରେ ଏହା ପ୍ରଥମେ ଦେଖିବାକୁ ହେବ ଯେ ପାଇପ୍ ଲାଇନ୍ଟି କୌଣସି କାରଖାନା କିମ୍ବା ଦୂଷିତ ଜଳ ବିଶୋଧନ ବ୍ୟବସ୍ଥା ସହ ସଂଯୋଗିତ କି ? ଯଦି ଏହା ହୋଇଥାଏ ତେବେ ଆମକୁ ଦେଖିବାକୁ ହେବ ଯେ କାରଖାନା କିମ୍ବା ବିଶୋଧନ ପ୍ରତିଷ୍ଠାନ ଆବର୍ଜନାକୁ ନଦୀକୁ ଛାଡ଼ିବା ପାଇଁ ଆବଶ୍ୟକ ଅନୁମତି ପାଇଛି କି ? ଯଦି ଅନୁମତି ମିଳିଥାଏ ତେବେ କେତେ ପରିମାଣର ନିଷ୍କାସନ କରାଯିବ ବୋଲି ଅନୁମତି ପତ୍ରରେ ଦର୍ଶାଯାଇଅଛି ଓ ଏହାକୁ ବିଶୋଧନ କରି କିମ୍ବା ବିଶୋଧନ ନକରି ଏହାକୁ ନଦୀକୁ ଛଡ଼ାଯିବ ବୋଲି ଉଲ୍ଲେଖ ଅଛି ।

Law	Corresponding Institutions/ Officials	Section/Clause
Site specific laws		
1. CRZ Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zone(s)	1. SCZMA 2. DLCC (under the District Collector)	Section 3; Section 4 and Section 7
2. FCA, 1980: Check whether the construction is being carried out on forest land and if permission for forest diversion is required	1. Divisional Forest Officer 2. MoEFCC (Regional and New Delhi office)	Section 2
3. Critically Polluted Area under the Air or Water Act: Check whether the area has been declared a Critically Polluted Area and if any special safeguards have been issued	PCB(s)	1. Chapter IV and Section 19 of the Air Act, 1981 2. Section 19 of the Water Act, 1974, 3. Section 19 of Air Act, 1981
4. WLPA, 1972: Check whether the activity is being carried out around an area declared as protected under the WLPA (e.g. National Park, Sanctuary, etc.)	1. Divisional Forest Officer (Wildlife) 2. Conservator of Forests (Wildlife) 3. State Board for Wildlife (SBWL)	Section 29; Section 35 (6)
Permissions, Rights and Consents related laws		
5. NOC from the Panchayat or Municipality: Check whether an No Objection Certificate (NOC) has been sought from the concerned Panchayat or Municipality	1. Sarpanch/Head of Panchayat 2. Elected Municipal Corporator/Municipal Commissioner	Each state has its own Panchayat Act
6. EIA Notification, 2006: Check whether the industry/facility has obtained the environmental clearance. If yes, check if there is a violation of a specific condition of the environmental clearance letter.	1. SEIAA (if Category B project) 2. MoEFCC (if Category A project)	Section 2 and related procedures Schedule of the EIA Notification and specifically Sections 7 (d); Section 7 (h)

ଆଇନ୍	ସମ୍ପର୍କୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୧. କୋଷ୍ଟାଲ୍ ରେଗୁଲେସନ୍ କୋନ୍ (ସିଆର୍କେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରି ଦେଖ ଏହି କାର୍ଯ୍ୟକ୍ରମ କୋଷ୍ଟାଲ୍ ରେଗୁଲେସନ୍ କୋନ୍ ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ।	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥିତ ଷ୍ଟେଟ୍ କୋଷ୍ଟାଲ୍ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟିଜ୍ (ସିଜେଡ୍-ଏମ୍-ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କ ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ତରୀୟ କୋଷ୍ଟାଲ୍ କମିଟି	ଅନୁଚ୍ଛେଦ-୩ ଅନୁଚ୍ଛେଦ-୪ ଏବଂ ଅନୁଚ୍ଛେଦ-୭
୨. ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍ ୧୯୮୦ (ଫରେଷ୍ଟ କନ୍ଜର୍ଭେସନ୍ ଆକ୍ଟ ୧୯୮୦): ନିର୍ମାଣ କାର୍ଯ୍ୟ ଜଙ୍ଗଲ ଜମିରେ ହେଉଛି କି ନାହିଁ ଏବଂ ଜଙ୍ଗଲ ଜମିକୁ ଅଣଜଙ୍ଗଲ କାର୍ଯ୍ୟକରି ବ୍ୟବହାର ପାଇଁ ଅନୁମତି ଆବଶ୍ୟକ କି ନାହିଁ	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ (ଡିଭିଜନାଲ ଫରେଷ୍ଟ ଅଫିସର) ୨. ପରିବେଶ ଓ ଜଙ୍ଗଲ ମନ୍ତ୍ରଣାଳୟ (ଆଞ୍ଚଳିକ ଓ ନୂଆଦିଲ୍ଲୀ କାର୍ଯ୍ୟାଳୟ)	ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍ ୧୯୮୦ ର ଅନୁଚ୍ଛେଦ - ୨
୩. ଏଆର୍ ଓ ୱାଟର ଆଇନ୍ରେ ଦର୍ଶାଯାଇଥିବା ସଙ୍କଟାପନ୍ନ ପ୍ରଦୂଷିତ ଅଞ୍ଚଳ: ଏହି ଅଞ୍ଚଳକୁ ସଙ୍କଟାପନ୍ନ ଅଞ୍ଚଳ ବୋଲି ଘୋଷଣା କରାଯାଇଛି କି ଏବଂ ଏହା ପାଇଁ ବିଶେଷ ସୁରକ୍ଷା ବିଧି ପାଳନ ପାଇଁ ନିର୍ଦ୍ଦେଶ ଅଛି କି ନାହିଁ।	ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	୧. ଏଆର୍ ଆକ୍ଟ, ୧୯୮୧ର ବିଷୟ ଭାଗ-୪ ୱାଟର ଆକ୍ଟ ୨. ଅନୁଚ୍ଛେଦ - ୧୯ ଏଆର୍ ଆକ୍ଟ ୧୯୮୧ ର ଅନୁଚ୍ଛେଦ-୧୯
୪. ବନ୍ୟପ୍ରାଣୀ ସୁରକ୍ଷା ଆଇନ୍, ୧୯୭୨ (ୱାଇଲ୍ଡ ଲାଇଫ୍ ପ୍ରୋଟେକ୍ସନ୍ ଆକ୍ଟ ୧୯୭୨): ବନ୍ୟପ୍ରାଣୀ ସୁରକ୍ଷା ଆଇନ୍ ଅନୁଯାୟୀ କାର୍ଯ୍ୟ ହେଉଥିବା ଅଞ୍ଚଳକୁ ସଂରକ୍ଷିତ ବୋଲି ଘୋଷଣା କରାଯାଇଛି କି ନାହିଁ (ଯଥା- ଜାତୀୟ ଉଦ୍ୟାନ, ବନ୍ୟଜନ୍ତୁ ସଂରକ୍ଷଣ ଅଞ୍ଚଳ ଇତ୍ୟାଦି)	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ (ବନ୍ୟଜନ୍ତୁ) ୨. ବନ ସଂରକ୍ଷକ (ବନ୍ୟଜନ୍ତୁ) ୩. ଷ୍ଟେଟ୍ ବୋର୍ଡ ଫର ୱାଇଲ୍ଡ ଲାଇଫ୍ (ଏସ୍‌ବିଡ୍‌ଲୁଏଲ୍)	ଅନୁଚ୍ଛେଦ- ୨୯, ଅନୁଚ୍ଛେଦ- ୩୫ (୬)
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୫. ପଞ୍ଚାୟତ ବା ମ୍ୟୁନିସିପାଲିଟି ଠାରୁ ନିର୍ବିରୋଧ (ନୋ ଅବଜେକ୍ସନ୍): ଯାଞ୍ଚ କରିବାକୁ ହେବ ସଂପୃକ୍ତ ପଞ୍ଚାୟତ ବା ମ୍ୟୁନିସିପାଲିଟି ଠାରୁ ନିର୍ବିରୋଧ (ନୋ ଅବଜେକ୍ସନ୍) ଅଣାଯାଇଛି କି ନାହିଁ।	୧. ସରପଞ୍ଚ/ପଞ୍ଚାୟତ ମୁଖ୍ୟ ୨. ନିର୍ବାଚିତ ମ୍ୟୁନିସିପାଲ୍ କର୍ପୋରେଟର / ମ୍ୟୁନିସିପାଲ୍ କମିଶନର	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ୍ ଅଛି
୬. ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍, ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି, ୨୦୦୬): କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ପ୍ରତିଷ୍ଠା, ବିଶୋଧନ କେନ୍ଦ୍ର କିମ୍ବା ପାଇପ୍ ଲାଇନ୍ ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ କିମ୍ବା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଦିଆଯାଇଥିବା ବିଶେଷ ସର୍ତ୍ତର ଉଲ୍ଲେଖ	୧. “ଖ” ଶ୍ରେଣୀ (“ବ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ରାଜ୍ୟ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ ଷ୍ଟେଟ୍ ଏନ୍ ୱାଇଲ୍ଡଲାଇଫ୍ ଆଣ୍ଡ ସେସମେଣ୍ଟ ଅଥରିଟି- ଏସ୍ ଇଆଇଏ) ୨. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ ଜଙ୍ଗଲ କଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରଣାଳୟ	ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍ ସିଡ୍‌ସ୍ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ପୂର୍ଣ୍ଣ) ଏବଂ ବିଶେଷ କରି ଅନୁଚ୍ଛେଦ- ୬ (ସ), ୭ (କ) ଇଆଇଏ ନୋଟିଫିକେସନ୍ ୨୦୦୬ ର ଅନୁଚ୍ଛେଦ- ୨ ଏବଂ ସମ୍ପର୍କୀୟ କାର୍ଯ୍ୟ ପଞ୍ଜିତ।

7. Water (Prevention and Control of Pollution) Act, 1974: Check whether the consents to establish and operate the pipeline as part of the industry/facility or independently have been obtained and if there is any violation of the same	1. SPCB and its regional offices	Section 25 (1); Section 25 (4)
Public nuisance under criminal law		
8. The Indian Penal Code (IPC), 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines a public nuisance

CONDITIONS IN A CRZ APPROVAL LETTER OF AN INDUSTRY ON THE WEST COAST

- There shall be disposal of solid and liquid wastes in the coastal areas.
- Sewage Treatment facility should be provided in accordance with the CRZ Notification. Chlorination shall be adopted and treated sewage should be reused.
- Adequate measures should be taken to prevent odour problems from the solid waste processing plant and sewage treatment plant.

୭. ଶ୍ଵାସକ୍ ପ୍ରଦୂଷକ ଏଣ୍ଡ କଣ୍ଟ୍ରୋଲ ଅକ୍ଟ୍ ପଲ୍ୟୁସନ୍ ଆକ୍ଟ, ୧୯୭୨ (କଲ ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ ଆକ୍ଟ, ୧୯୭୨) : ସ୍ଵତନ୍ତ୍ର ଭାବେ ପାଇପ୍ ଲାଇନ୍ ବିଛାଇବା ଓ ପରିଚାଳନା ପାଇଁ କିମ୍ବା କୌଣସି ଏକ ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନର ଅଂଶ ରୂପେ ସମ୍ପତ୍ତି ନେବାକୁ ହୁଏ ।	୧. ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ଏବଂ ଏହାର ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ ।	ଅନୁଚ୍ଛେଦ- ୨୫ (୧), ଅନୁଚ୍ଛେଦ- ୨୫ (୪)
ଫୌଜଦାରୀ ଆଇନ୍ ଅନୁଯାୟୀ ଜନଜୀବନର ଷଡ଼ି		
୮. ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍, ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁଚ୍ଛେଦ- ୧୯ ଅନୁଯାୟୀ ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିକୁ ବିଚାରପତିର ନ୍ୟାୟିକ କ୍ଷମତା ଅନୁଚ୍ଛେଦ- ୨୬୮ ଯାହା ଜନଜୀବନରେ ଷଡ଼ିର ସଂଜ୍ଞା ନିରୂପଣ କରିଅଛି

ପଶ୍ଚିମ ତଟରେ କାରଖାନା ପ୍ରତିଷ୍ଠା ପାଇଁ ସିଆର୍କେଡ୍ ମଞ୍ଜୁରୀ ପତ୍ରର ସର୍ତ୍ତାବଳୀ

- କଠିନ ଓ ତରଳ ବର୍ଜ୍ୟବସ୍ତୁ ଉପକୂଳ ଅଞ୍ଚଳରେ ନିଷ୍କାସନ କରାଯିବ ।
- ସିଆର୍କେଡ୍ ବିଜ୍ଞପ୍ତି ଅନୁଯାୟୀ ଆବର୍ଜନା ଜଳ ବିଶୋଧନର ସୁବିଧା ସୃଷ୍ଟି କରାଯିବ । କ୍ଲୋରିନ୍ ପ୍ରୟୋଗ ଦ୍ଵାରା ବିଶୋଧନ କରାଯାଇ ବିଶୋଧିତ ମଇଳାଜଳକୁ ପୁନଃବ୍ୟବହାର କରାଯିବ ।
- କଠିନ ବର୍ଜ୍ୟବସ୍ତୁ ପ୍ରକ୍ରିୟାକରଣ କାରଖାନା ଓ କଠିନ ବର୍ଜ୍ୟବସ୍ତୁ ବିଶୋଧନ କାରଖାନାରୁ ନିର୍ଗତ ଦୁର୍ଗନ୍ଧ ପ୍ରତିକାର ପାଇଁ ଉପଯୁକ୍ତ ପଦକ୍ଷେପ ଗ୍ରହଣ କରାଯିବ ।

SCENARIO 5

What is the complaint?

Residents of a village settlement approached a paralegal with news related to construction of a godown by a private company. The residents have found out that the godown will be used for storing toxic chemicals. The location of the storage terminal is very close to the village school and within a range of one kilometre from their village boundary. They are worried about the harmful effects of toxic chemicals on their health once the godown is constructed. Villagers also fear that in the event of an accident or a leakage in the terminal, their lives and their children's lives will be at risk. They have raised all these concerns before the government officials and yet the construction activity has continued.

Is a law being violated?

In this case it needs to be understood (a) if the godown has the necessary permissions for construction; if yes, what is the exact location and (b) whether approvals for the storage and handling of hazardous chemicals have been obtained. Since the local people have raised these issues before government bodies in the past, it can be checked if this was through a legal forum like a public hearing and whether they are reflected anywhere in the project appraisal process. It can also be checked if the conditions on which the permissions were granted, are complied with.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୫

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଗ୍ରାମବାସୀ ଗୋଟିଏ ଆଇନ୍ ସହାୟକଙ୍କୁ ଏକ ବେସରକାରୀ କମ୍ପାନୀ ଦ୍ୱାରା ଏକ ଗୋଦାମ ନିର୍ମାଣ କରାଯାଉଥିବା ବାବଦରେ ସମ୍ବାଦ ଦେଲେ । ଗ୍ରାମବାସୀମାନେ ଜାଣିବାକୁ ପାଇଛନ୍ତି ଯେ ଏହି ଗୋଦାମଟି ହାନିକାରକ ରାସାୟନିକ ପଦାର୍ଥକୁ ଗଚ୍ଛିତ କରିବା ପାଇଁ ବ୍ୟବହାର କରାଯିବ ଏହି ଗୋଦାମର ସୀମାର ଅବସ୍ଥିତି ଗାଁ ସ୍କୁଲ ପାଖରେ ଏବଂ ଗ୍ରାମସୀମା ଠାରୁ ୧ କିଲୋମିଟର ମଧ୍ୟରେ । ଗୋଦାମଗୃହ ନିର୍ମାଣ ହେବାପରେ ହାନିକାରକ ରାସାୟନିକ ପଦାର୍ଥର ସେମାନଙ୍କର ସ୍ୱାସ୍ଥ୍ୟ ଉପରେ କୁପ୍ରଭାବ ପଡ଼ିବାର ଆଶଙ୍କା ହେତୁ ସେମାନେ ଚିନ୍ତିତ । ଗୋଦାମରେ କୌଣସି ଏକ ଦୁର୍ଘଟଣା ବା ଛିଦ୍ର ଯୋଗୁଁ ରାସାୟନିକ ପଦାର୍ଥର ନିର୍ଗମନ ଦ୍ୱାରା ସେମାନଙ୍କର ଏବଂ ସେମାନଙ୍କର ପିଲାଛୁଆଙ୍କର ଜୀବନ ପ୍ରତି ବିପଦ ଅଛି ବୋଲି ସେମାନେ ଭୟ କରନ୍ତି । ସେମାନେ ଏ ବାବଦରେ ସରକାରଙ୍କୁ ଆବଗତ କରାଇବା ସତ୍ତ୍ୱେ ନିର୍ମାଣ କାର୍ଯ୍ୟ ଚାଲୁରହିଅଛି ।

ଆଇନର ଉଲ୍ଲଙ୍ଘନ ହେଉଛି କି ?

ଏ କ୍ଷେତ୍ରରେ ଏହା ଆମକୁ ବୁଝିବାକୁ ହେବ ଯେ (କ) ଗୋଦାମ ନିର୍ମାଣ ପାଇଁ ଆବଶ୍ୟକ ଅନୁମତି ମିଳିଛି କି ? ଯଦି ହଁ, ତେବେ ଏହାର ସଠିକ ସ୍ଥାନ ଏବଂ (ଖ) ଅନୁମତି ହାନିକାରକ ରାସାୟନିକ ପଦାର୍ଥ ଗଚ୍ଛିତ କରିବା ପାଇଁ ଏହାର ପରିଚାଳନା ପାଇଁ ନା ନାହିଁ । ଯେହେତୁ ସେ ଅଞ୍ଚଳବାସୀ ସରକାରଙ୍କୁ ଏ ବିଷୟରେ ଅତୀତରେ ଅବଗତ କରିଛନ୍ତି, ତେଣୁ ଆମକୁ ଏହା ଦେଖିବାକୁ ହେବ ଯେ କନସାଇଡେନ୍ସ ସରକାରଙ୍କୁ କନଶୁଣାଣୀ ପରି ଏକ ବିଧିସଙ୍ଗତ କାର୍ଯ୍ୟକ୍ରମ ମାଧ୍ୟମରେ ଜଣାଇଛନ୍ତି ନା ଏହା ପ୍ରକଳ୍ପ ମୂଲ୍ୟାଙ୍କନ ପ୍ରକ୍ରିୟା ମାଧ୍ୟମରେ କୌଣସି ଏକ ପରିସ୍ଥିତିରେ ଅବଗତ କରାଯାଇଅଛି । ଏହା ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ଯଦି ମଞ୍ଜୁରୀ ଦିଆଯାଇଛି ତେବେ କେଉଁ ସର୍ତ୍ତାବଳୀ ପାଳନ ଆଧାରରେ ମଞ୍ଜୁରୀ ଦିଆଯାଇଛି, ସେଗୁଡ଼ିକ ପାଳନ କରାଯାଇଛି କି ନାହିଁ ।



Photo credit: Kanchi Kohli / ଫଟୋ ଡଟ୍ କମ୍ପ୍ୟୁଟର ଗ୍ରାଫିକ୍ସ

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. EIA Notification, 2006: Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition of an environmental clearance letter.	1. SEIAA (if Category B project) 2. MoEFCC (if Category A project)	Schedule of the EIA Notification and specifically Section 6 (b) Section 2; Section 8; Appendix IV
2. Hazardous and Other Wastes (Management and Trans-boundary Movement) Rules, 2016:	SPCB	Section 4
3. NOC from the Panchayat or Municipality: Check whether an NOC has been sought from the concerned Panchayat or Municipality	1. Sarpanch/Head of Panchayat 2. Elected Municipal Corporator/Municipal Commissioner	Each state has its own Panchayat Act
4. CRZ Notification, 2011: Check whether this is a permissible activity in any of the concerned CRZ sub-zone(s).	1. SCZMA located at the state capital 2. DLCC (under the District Collector)	Section 3; Section 4 and Section 7
Other Site specific laws		
5. WLPA, 1972: Check whether the activity is being carried out around or within an area declared as protected under the WLPA (e.g. National Park, Sanctuary, etc.)	1. Divisional Forest Officer (Wildlife) 2. Conservator of Forests (Wildlife) 3. State Board for Wildlife (SBWL)	Section 29; Section 35 (6)
6. ESA, CVCA, Critically Polluted Area, etc.: Check whether any special orders, notifications or guidelines have been issued to protect or conserve this area or restrict activity under the declaration of an ESA, CVCA, Critically Polluted Area or so on	1. MoEFCC 2. ESA Management Committee 3. SCZMA 4. PCB	1. Section 3 (2) (v) of the EPA, 1986 2. Section 4 of the CRZ Notification, 2011 3. Section 19 of Air Act, 1981 or Water Act, 1974

ଆଇନ୍	ସମ୍ବନ୍ଧୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୧. ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି, ୨୦୦୬ (ଏନ୍‌ଡାଇଇନମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ନୋଟିଫିକେସନ୍ ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପ ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ। ଯଦି ହଁ, ତେବେ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖ ହୋଇଥିବା କୌଣସି ସର୍ତ୍ତକୁ ଏହା ଖିଲାପ କରୁଛି କି ନାହିଁ।	୧. “ଖ” ଶ୍ରେଣୀ (“ବି” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ରାଜ୍ୟ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ (ଝେଟ୍ ଏନ୍‌ଡାଇଇନମେଣ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ଅଥରିଟି - ଏସ୍ ଇଆଇଏ) ୨. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ ଜଙ୍ଗଲ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରଣାଳୟ	ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍ ସିଦ୍ଧ୍ୟୁଲ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ପୂର୍ଣ୍ଣ) ଏବଂ ବିଶେଷ କରି ଅନୁକ୍ଷେପ-୬ (ଖ) ଅନୁକ୍ଷେପ-୨, ଅନୁକ୍ଷେପ-୮, ପରିଶିଷ୍ଟ - ୪
୨. ହାଜାଡ଼ସ୍ ମ୍ୟାନେଜିଆଲ୍ (ମ୍ୟାନେଜ୍‌ମେଣ୍ଟ ହ୍ୟାଣ୍ଡବୁକ୍ ଏଣ୍ଡ ଟ୍ରାନ୍ସବାଉଣ୍ଡରୀ ମୁଭମେଣ୍ଟ୍) ରୁଲ୍ସ ୨୦୧୬	ରାଜ୍ୟ ପ୍ରଦୃଶ୍ୟ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	ଅନୁକ୍ଷେପ ୪
୩. ପଞ୍ଚାୟତ ବା ମ୍ୟୁନିସିପାଲିଟି ଠାରୁ ନିର୍ବିରୋଧ (ନୋ ଅବ୍‌ଜେକ୍ସନ୍): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପଞ୍ଚାୟତ ବା ମ୍ୟୁନିସିପାଲିଟି ଠାରୁ ନିର୍ବିରୋଧ ପ୍ରମାଣପତ୍ର (ନୋ ଅବ୍‌ଜେକ୍ସନ୍ ସାର୍ଟିଫିକେଟ୍) ଅଣାଯାଇଅଛି କି ନାହିଁ ।	୧. ସରପଞ୍ଚ/ପଞ୍ଚାୟତ ମୁଖ୍ୟ ୨. ନିର୍ଦ୍ଧାରିତ ମ୍ୟୁନିସିପାଲିଟି କର୍ପୋରେଟର / ମ୍ୟୁନିସିପାଲ୍ କମିଶନର	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ୍ ଅଛି
୪. କୋଷ୍ଟାଲ୍ ରେଗୁଲେସନ୍ କୋଡ୍ (ସିଆର୍‌ଜେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରି ଦେଖ ଏହି କାର୍ଯ୍ୟକ୍ରମ କୋଷ୍ଟାଲ୍ ରେଗୁଲେସନ୍ କୋଡ୍‌ରେ ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ ।	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥିତ ଝେଟ୍ କୋଷ୍ଟାଲ୍ କୋଡ୍ ମ୍ୟାନେଜ୍‌ମେଣ୍ଟ ଅଥରିଟି (ସିଜେଡ୍‌ଏମ୍‌ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କ ଅଧିନସ୍ଥ ଜିଲ୍ଲା ଗ୍ରାମ୍ୟ କୋଷ୍ଟାଲ୍ କମିଟି	ଅନୁକ୍ଷେପ-୩, ଅନୁକ୍ଷେପ-୪ ଏବଂ ଅନୁକ୍ଷେପ-୬
ଅନ୍ୟାନ୍ୟ ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୫. ବନ୍ୟପ୍ରାଣୀ ସୁରକ୍ଷା ଆଇନ୍, ୧୯୭୨ (କ୍ୱାଇଲ୍ଡ ଲାଇଫ୍ ପ୍ରୋଟେକ୍ସନ୍ ଆକ୍ଟ (ଡବ୍ଲ୍ୟୁଏଲ୍‌ସିଏ) ୧୯୭୨): ଏହି ପ୍ରକଳ୍ପଟି ବନ୍ୟପ୍ରାଣୀ ସଂରକ୍ଷିତ ଅଞ୍ଚଳ ମଧ୍ୟରେ କିମ୍ବା ଏହାର ପରିସୀମା ମଧ୍ୟରେ ହେଉଛି କି ନାହିଁ ଦେଖିବାକୁ ହେବ (ଜାତୀୟ ଉଦ୍ୟାନ, ବନ୍ୟଜନ୍ତୁ ସଂରକ୍ଷଣ ସ୍ଥାନ ଇତ୍ୟାଦି)	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ (ବନ୍ୟଜନ୍ତୁ) ୨. ବନସଂରକ୍ଷକ (ବନ୍ୟଜନ୍ତୁ) ୩. ଝେଟ୍ ବୋର୍ଡ୍ ଫର କ୍ୱାଇଲ୍ଡ ଲାଇଫ୍ (ଏସ୍‌ବିଡବ୍ଲ୍ୟୁଏଲ୍)	ଅନୁକ୍ଷେପ-୨୯, ଅନୁକ୍ଷେପ-୩୫ (୬)
୬. ଇଏସ୍‌ଏ, ସିଭିସିଏ, ସିଇପିଆଇ: ଏହି ଅଞ୍ଚଳର ସୁରକ୍ଷା ଓ ସଂରକ୍ଷଣ ପାଇଁ ଏବଂ ଇଏସ୍ ଏ, ସିଭିସିଏସ୍ ସଙ୍କଟାପନ୍ନ ପ୍ରଦୃଷ୍ଟ ଅଞ୍ଚଳରେ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟ ନିୟନ୍ତ୍ରଣ କରିବା ଉଦ୍ଦେଶ୍ୟରେ ବିଶେଷ ନିର୍ଦ୍ଦେଶ, ବିଜ୍ଞପ୍ତି ଓ ନୀତି ନିୟମ ଅଛି ନା ନାହିଁ ।	୧. ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରଣାଳୟ ୨. ଇଏସ୍ ଏ ମ୍ୟାନେଜ୍‌ମେଣ୍ଟ କମିଟି ୩. ଝେଟ୍ କୋଷ୍ଟାଲ୍‌କୋଡ୍ ମ୍ୟାନେଜ୍‌ମେଣ୍ଟ ଅଥରିଟି ୪. ପ୍ରଦୃଶ୍ୟ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	୧. ପରିବେଶ ପ୍ରଦୃଶ୍ୟ ଆଇନ୍ ୧୯୮୬ର ଅନୁକ୍ଷେପ-୩(୨) ୨. ସିଆର୍‌ଜେଡ୍ ନୋଟିଫିକେସନ୍ ୨୦୧୧ର ଅନୁକ୍ଷେପ-୪ ୩. ଏଆର ଆକ୍ଟ, ୧୯୮୧ କିମ୍ବା ଖୁବ୍‌ର ଆକ୍ଟ, ୧୯୭୪ର ଅନୁକ୍ଷେପ - ୧୯

SCENARIO 6

What is the complaint?

The new community worker in the village noticed that there was a constant flow of trucks into the village every day from the nearby coal mines. These trucks were usually carrying some sort of minerals from nearby companies and left behind a trail of dust every time. A layer of dust always covered the houses and shops that were on the roadside. Asking the villagers about this, she came to know that this had been going on for years and that overspeeding of the trucks has even caused deaths in the area. The villagers said that at several occasions they had pleaded with the company owners to do something about this situation.

Is a law being violated?

Mines have to take permissions related to siting of the operations (e.g., in forest areas) mitigating environmental impacts and pollution control from different regulatory agencies. These permissions once granted list out the conditions to minimise the environmental and social impact while transporting the ore. Alternatively, one can also approach the District Collector under the Indian Penal Code (IPC). As dust generated while transporting causes a nuisance to the public, a complaint can be made citing public nuisance.

(Note: While the provisions below are responding to the specific scenario of coal transportation, they would also be applicable to the transportation of other minerals and even fly ash, especially where the law is not coal centric.)



ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୬

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ନୂଆକରି କାର୍ଯ୍ୟକରୁଥିବା ଗୋଷ୍ଠୀ ସମାଜସେବୀ ଦେଖିବାକୁ ପାଇଲେ ଯେ ନିକଟସ୍ଥ କୋଇଲାଖଣିରୁ ପ୍ରତିଦିନ ଟ୍ରକ ଗାଁକୁ ଆସୁଛନ୍ତି । ଏହି ଟ୍ରକ ଗୁଡ଼ିକ ସାଧାରଣତଃ ନିକଟରେ ଅବସ୍ଥିତ କମ୍ପାନୀମାନଙ୍କରୁ ଖଣିଜପଦାର୍ଥ ନେବା ଆଣିବା କରିଥାନ୍ତି ଏବଂ ଯାତାୟତ ବେଳେ ଧୂଳି ଉଡ଼ିଥାଏ । ରାସ୍ତା କଡ଼ରେ ଅବସ୍ଥିତ ଘର ଓ ଦୋକାନ ଘର ଉପରେ ଏକ ଧୂଳିର ଆବରଣ ଦେଖିବାକୁ ମିଳେ । ଗ୍ରାମବାସୀଙ୍କୁ ଏ ବିଷୟରେ ପଚାରିବାକୁ ଜଣାପଡ଼ିଲା ଯେ ଏହା ଅନେକ ବର୍ଷ ହେଲା ଚାଲୁରହିଛି ଏବଂ ଦୂତଗତି ଯୋଗୁଁ ଦର୍ଦ୍ଦଶନା ଜନିତ ମୃତ୍ୟୁ ମଧ୍ୟ ଏ ଅଞ୍ଚଳରେ ହୋଇଛି । ଏପରି ପରିସ୍ଥିତିର ପ୍ରତିକାର ପାଇଁ ଅନେକଥର ଗ୍ରାମବାସୀ କମ୍ପାନୀ କର୍ତ୍ତୃପକ୍ଷଙ୍କର ନିକଟରେ ନିବେଦନ କରିଛନ୍ତି ।

ଏଠାରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହେଉଛି କି ?

ଖଣି ସ୍ଥାପନ ପାଇଁ ବିଭିନ୍ନ ନିୟମକ କର୍ତ୍ତୃପକ୍ଷଙ୍କଠାରୁ ଏଠାର ସ୍ଥାନ (ଯଥା ଜଙ୍ଗଲ ଅଞ୍ଚଳ), ପରିବେଶ ପ୍ରଭାବର ପ୍ରାମାଣ୍ୟ ଏବଂ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବିଷୟରେ ଅନୁମତି ନେବାକୁ ପଡ଼େ । ଖଣିଜ ପଦାର୍ଥ ପରିବହନ ବେଳେ ପରିବେଶ ଓ ସାମାଜିକ ପ୍ରଭାବକୁ ହ୍ରାସ କରିବା ଉଦ୍ଦେଶ୍ୟରେ ଅନୁମତି ପ୍ରଦାନରେ କେତେଗୁଡ଼ିଏ ସର୍ତ୍ତର ଉଲ୍ଲେଖ କରାଯାଇଥାଏ । ବିକଳ ଭାବରେ ଜଣେ ବ୍ୟକ୍ତି ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ସଂହିତା ଅନୁଯାୟୀ ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କୁ ଏ ବାବଦରେ ଜଣାଇପାରିବ ଯେହେତୁ ପରିବହନ ଯୋଗୁଁ ଧୂଳିସୂକ୍ଷ୍ମ ହେଉଛି ଯାହାକି ଜନସାଧାରଣଙ୍କର ପାଇଁ ବିପତ୍ତି ସୃଷ୍ଟି କରୁଛି, ତେଣୁ ଏହା ଜନଜୀବନ ବିପନ୍ନ କରୁଥିବା କାର୍ଯ୍ୟ ହିସାବରେ ଅବିହିତ କରି ଅଭିଯୋଗ ଦାଖଲ କରାଯାଇପାରିବ ।

ବିଶେଷ ଦ୍ରଷ୍ଟବ୍ୟ- ନିମ୍ନଲିଖିତ ଆଇନର ବ୍ୟବସ୍ଥା ଗୁଡ଼ିକ କୋଇଲା ପରିବହନ ପ୍ରସଙ୍ଗରେ ବର୍ତ୍ତନା କରାଯାଇଥିଲେ ମଧ୍ୟ ଏହା ଅନ୍ୟାନ୍ୟ ଖଣିଜ ପଦାର୍ଥ ଏପରିକି କାରଖାନାରୁ ନିର୍ଗତ ପାଇଁ ଶ୍ଵେତରେ ମଧ୍ୟ ପ୍ରଯୁଜ୍ୟ, ବିଶେଷତଃ ଯେଉଁଠାରେ ଆଇନଟି କୋଇଲା ବିଷୟକ ନୁହେଁ ।

Photo credit: Bharat Patel / ଫଟୋ ଚିତ୍ର ଶ୍ରେୟ: ଭରତ ପଟେଲ

Law	Corresponding Institutions/Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. EIA Notification, 2006 Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition.	1. SEIAA (if Category B project) 2. MoEFCC (if Category A project)	Section 10 on monitoring and compliance Check whether the environmental clearance letter has any specific conditions related to transportation.
2. Air (Prevention and Control of Pollution) Act, 1981: Check whether the consents to establish and operate have been sought and if their conditions are being complied with(for consent to establish and operate)	SPCB or its nearest Regional Office	Section 21 (incase the company has not complied with conditions of the consent to operate) Section 31 A whereby in case of any violation, the SPCB can give directions for closure or stopping water or electricity supply Specific conditions of the consent to operate related to transportation
Public nuisance under criminal law		
3. IPC, 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines public nuisance
State specific guidelines (example)		
4. Guidelines for Coal Handling Units, 2010	Gujarat Pollution Control Board	Check for conditions related to transportation of coal

Guidelines for Coal Handling Units (issued by the Gujarat Pollution Control Board)

The Gujarat Pollution Control Board in 2010 issued guidelines specifically to deal with the environmental impacts arising out of storage, transportation and handling of coal. These guidelines lay down criteria regarding the following:

- Location- it specifies the distance at which a coal handling unit should be situated from areas like agricultural land, human habitations and ecological sensitive areas.
- Storage and handling- it gives the maximum height for stored coal heaps, the distance between them, and states that there should be mechanised loading and unloading
- Transportation- it has conditions like the trucks carrying the coal should be covered with tarpaulin, the trucks should not be overloaded, etc.
- Pollution prevention- it has conditions like water sprinkling should be conducted at every point of handling, there should be a 9 m compound wall at the periphery of the unit, etc.

ଆଇନ୍	ସମ୍ପର୍କୀତ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି ଅଧିକାର ଏବଂ ସମ୍ପର୍କିତ ଆଇନ୍		
୧. ଏନଭାଇଇନମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍ମେଣ୍ଟ ନୋଟିଫିକେସନ୍, ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ କାର୍ଯ୍ୟକ୍ରମ ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଅଛି କି? ଯଦି ହଁ, ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଦର୍ଶାଯାଇଥିବା କୌଣସି ସର୍ତ୍ତର ଏହା ଖିଲାପ କରୁଛି କି ନାହିଁ ।	୧. ଷ୍ଟେଟ୍ ଏନଭାଇଇନମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍ମେଣ୍ଟ ଅଥରିଟି ଯଦି ଏହା “ଖ” ଶ୍ରେଣୀ (“ବି” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥାଏ ୨. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ କଳାମ ମନ୍ତ୍ରାଳୟ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ତଦାରଖ ଓ ସର୍ତ୍ତପାଳନ ସମ୍ପର୍କୀତ ଅନୁକ୍ଳେଦ-୧୦ ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ପରିବହନ ସମ୍ପର୍କୀତ କୌଣସି ବିଶେଷ ସର୍ତ୍ତ ଅଛି କି ନାହିଁ ।
୨. ବାୟୁ (ପ୍ରଦୂଷଣ ଓ ନିୟନ୍ତ୍ରଣ) ଆଇନ୍ ଯାହାକି ୧୯୮୧: ରେ କାର୍ଯ୍ୟକାରୀ ହୋଇଥିଲା (ପ୍ରକଳ୍ପ ସ୍ଥାପନ ଓ କାର୍ଯ୍ୟକାରୀ ହେବା ପାଇଁ ସମ୍ପର୍କିତ)	ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ କିମ୍ବା ଏହାର ନିକଟସ୍ଥ ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ	ଅନୁକ୍ଳେଦ-୨୧ (ଯଦି କମ୍ପାନୀ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ ହେବା ନିମନ୍ତେ ସମ୍ପର୍କିତ ପତ୍ରରେ ଦର୍ଶାଯାଇଥିବା ସର୍ତ୍ତ ପାଳନରେ ଖିଲାପ କରିଛି) ଅନୁକ୍ଳେଦ-୩୧ (କ) ଯେଉଁ କ୍ଷେତ୍ରରେ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ସର୍ତ୍ତ ଖିଲାପ ହେଲେ ବିଦ୍ୟୁତ୍ ଓ ଜଳ ଯୋଗାଣ ବନ୍ଦ କରିବା ପାଇଁ ନିର୍ଦ୍ଦେଶ ଦେଇପାରିବ । ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ କରିବା ପାଇଁ ସମ୍ପର୍କିତ ପତ୍ରରେ ପରିବହନ ସମ୍ପର୍କୀତ ବିଶେଷ ସର୍ତ୍ତ
ଫୌଜଦାରୀ ଆଇନ୍ ଅନୁଯାୟୀ ଜନକୀର୍ତ୍ତବ୍ୟତା		
୩. ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍, ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁକ୍ଳେଦ-୧୯ ଅନୁଯାୟୀ ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିକୁ ବିଚାରପତିର ନ୍ୟାୟିକ କ୍ଷମତା ଅନୁକ୍ଳେଦ-୨୬୮ ଯାହା ଜନକୀର୍ତ୍ତବ୍ୟତାରେ କ୍ଷତିର ସଂଜ୍ଞା ନିରୂପଣ କରିଅଛି ।
ରାଜ୍ୟ ବିଶେଷକ ନୀତିନିୟମ		
୪. କୋଇଲା ପରିବହନ କରୁଥିବା ସଂସ୍ଥାମାନଙ୍କ ପାଇଁ ନୀତିନିୟମ	ଗୁଜୁରାଟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	କୋଇଲା ପରିବହନ ସମ୍ପର୍କୀତ ସର୍ତ୍ତଗୁଡ଼ିକ ଦେଖନ୍ତୁ

କୋଇଲା ପରିଚାଳନା କରୁଥିବା ସଂସ୍ଥାପାଇଁ ନୀତିନିୟମ (ଗୁଜୁରାଟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ଦ୍ୱାରା ଏହା ଜାରି କରାଯାଇଅଛି)

କୋଇଲା ମହଜୁଦ୍ କରିବା, ପରିବହନ ଓ ପରିଚାଳନା ଯୋଗୁଁ ସୃଷ୍ଟି ହେଉଥିବା ପରିବେଶ ପ୍ରଭାବକୁ ହ୍ରାସ କରିବା ପାଇଁ ଗୁଜୁରାଟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ନୀତିନିୟମ ପ୍ରଣୟନ କରିଛି । ଏହି ବିଶାଳନିର୍ଦ୍ଦେଶ ନିମ୍ନଲିଖିତ ମାନଦଣ୍ଡ ନିର୍ଦ୍ଧାରଣ କରିଛି ।

- ସ୍ଥାନ- ଏହା କୋଇଲା ପରିଚାଳନା କେନ୍ଦ୍ରଟି ବାସ କମି ଅଞ୍ଚଳ, ଜନବସତି ଏବଂ ପରିବେଶ ସମ୍ପ୍ରେଦାନଶୀଳ ଅଞ୍ଚଳ ଠାରୁ କେତେ ଦୂରରେ ସ୍ଥାପନ ହେବ ସେ ସମ୍ପର୍କରେ ବିଶେଷ ନିର୍ଦ୍ଦେଶ ଦିଏ ।
- ମହଜୁଦ୍ ଓ ପରିଚାଳନା- କୋଇଲା ଗଦାର ଲମ୍ବା ଓ ଉଚ୍ଚତା ଏବଂ ଯନ୍ତ୍ର ସାହାଯ୍ୟରେ କୋଇଲା ବୋଝେଇ ଓ ନିକାସ ।
- ପରିବହନ- କୋଇଲା ପରିବହନ ହେଉଥିବା ଟ୍ରକ୍ରେ କୋଇଲାକୁ ପାଲ ଦ୍ୱାରା ଘୋଡ଼ାଇ କରି ନିଆଯିବ ଓ ଟ୍ରକ୍ରେ ଏହାର କ୍ଷମତାଠାରୁ ଅଧିକ ଓଜନର ମାଲ ପରିବହନ କରାଯିବ ନାହିଁ ।
- ପ୍ରଦୂଷଣ ନିବାରଣ- କୋଇଲା ନେବା ଆଣିବା କରାଯାଉଥିବା ପ୍ରତ୍ୟେକ ସ୍ଥାନରେ ଜଳ ସିଞ୍ଚନ ଏବଂ କୋଇଲା ପରିଚାଳନା କେନ୍ଦ୍ରର ପରିସୀମାରେ ୯ ମିଟର ଉଚ୍ଚର କାନ୍ଥ ନିର୍ମାଣ ।

When do guidelines become legally enforceable?

Guidelines are generally not legally binding, and functions as a document that could be referred to for directions. Administrative bodies in India acquire delegated power to issue directions, rules and guidelines through legislations.

The Air and Water Act give powers to the State Governments to issue guidelines. In Gujarat for example, the Gujarat Pollution Control Board has issued the Guidelines for Coal Handling Units that lay down how the transportation, storage and handling of coal should be done. In Odisha, the Odisha Pollution Control Board has formulated the Railway Siding Guidelines.

While stand alone, these documents are merely directory and not mandatory, when they are added on to the legally enforceable documents like the Environmental Clearance letter, Consent to Operate (CTO) or Consent to Establish (CTE), the guidelines also automatically become legally enforceable. For example, if in the CTO of a project, a condition is included which says that, "The applicant shall comply with Guidelines for Handling of Coal Handling Units", then it makes it mandatory for the project to follow the conditions of the Guidelines.

ଦିଶାନିର୍ଦ୍ଦେଶକୁ କିପରି ଆଇନତଃ ଲାଗୁ କରାଯାଏ

ସାଧାରଣତଃ ଦିଶା ନିର୍ଦ୍ଦେଶ ଆଇନତଃ ବାଧ୍ୟତାମୂଳକ ନୁହେଁ ଏହା କାର୍ଯ୍ୟ ସମ୍ପନ୍ନନ ସଠିକ୍ ଭାବରେ କରିବା ପାଇଁ ଏକ ପରାମର୍ଶ ପତ୍ର ଭାବେ ଗ୍ରହଣ କରାଯାଏ। ଆଇନ ପ୍ରଣୟନ କରି ଭାରତରେ ପ୍ରଶାସନିକ କର୍ତ୍ତୃପକ୍ଷଙ୍କୁ ନିର୍ଦ୍ଦେଶ, ନିୟମ ଓ ଦିଶା ନିର୍ଦ୍ଦେଶ କରି କରିପାରିବାର କ୍ଷମତା ନ୍ୟସ୍ତ କରାଯାଇଅଛି।

ବାୟୁ ପ୍ରଦୂଷଣ (ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଅଧିନିୟମ ଓ ଜଳ (ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଅଧିନିୟମ ରାଜ୍ୟ ସରକାରମାନଙ୍କୁ ଦିଶାନିର୍ଦ୍ଦେଶ କରିକରିବାର କ୍ଷମତା ପ୍ରଦାନ କରିଛି। ଉଦାହରଣ ସ୍ୱରୂପ, ଗୁଜୁରାଟରେ ଗୁଜୁରାଟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ କୋଇଲାକୁ କିପରି ପରିବହନ, ମହଜୁଦ ଓ ପରିଚାଳନା କରାଯିବ ସେ ବାବଦରେ କୋଇଲା ପରିଚାଳନା ଦିଶାନିର୍ଦ୍ଦେଶ କରିକରିଛି। ଓଡ଼ିଶାରେ ଓଡ଼ିଶା ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ରେଲୱେ ସାଇଡିଙ୍ଗ୍ ଗାଇଡ୍‌ଲାଇନ୍ସ ପ୍ରଣୟନ କରିଛି।

ଏକାକୀ, ଏହି ଦଲିଲ୍ ଗୁଡ଼ିକ କେବଳ ଜାତବ୍ୟ ବିବରଣୀ ପୁସ୍ତିକା ଏବଂ ବାଧ୍ୟତାମୂଳକ ନୁହେଁ, କିନ୍ତୁ ଏହା ଯଦି ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ର, ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ମତି ପତ୍ର କିମ୍ବା ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ନିମନ୍ତେ ସମ୍ମତି ପତ୍ର ଇତ୍ୟାଦି ଆଇନତଃ ଲାଗୁ ହେଉଥିବା ଦଲିଲ୍ ସହ ଯୋଡ଼ି ଦିଆଯାଏ। ଏହା ଆଇନତଃ ଲାଗୁ ହୋଇଥାଏ। ଉଦାହରଣ ସ୍ୱରୂପ, କୋଇଲା ପରିଚାଳନା ପାଇଁ ଦିଶାନିର୍ଦ୍ଦେଶକୁ ପାଳନ କରିବାର ସର୍ତ୍ତକୁ ଯଦି ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ମତି ସହ ଯୋଡ଼ି ଦିଆଯାଏ ତେବେ ପ୍ରକଳ୍ପ କର୍ତ୍ତୃପକ୍ଷ ଦିଶାନିର୍ଦ୍ଦେଶର ସର୍ତ୍ତାବଳୀ ମାନିବାକୁ ଆଇନତଃ ବାଧ୍ୟ ହୁଅନ୍ତି।

SCENARIO 7

What is the complaint?

The youth group from a village living next to a coal-based power plant has been in an argument with the managers working at the unit. They claim that fumes from the cooling stacks are impacting the horticultural produce as well as causing breathing difficulties for people living close to the plant. In a recent training programme conducted by a local NGO, they have learnt that the power plant has been asked to do a full study on air quality modeling and report the same to the PCB. The youth group does not really know what to do with this information and what it really implies. They have approached a community organiser for help.

Is a law being violated?

Coal or gas based thermal power plants have to take permissions related to environmental impacts and pollution control from different regulatory agencies. These permissions, once granted, list out the technological input the plant would require, to reduce fumes (known as emissions). They would also have specific provisions related to how air quality monitoring should be carried out and how many monitoring stations should be set up. Other than emissions, power plants can also cause air pollution through the indiscriminate dumping of fly ash, generated in the process of power generation. This can also pollute the air in the area.



ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୭

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

କୋଇଲା ଆଧାରିତ ବିଦ୍ୟୁତ୍ ଉତ୍ପାଦନ କାରଖାନାର ନିକଟରେ ଅବସ୍ଥିତ ଏକ ଗ୍ରାମର ଯୁବକ ଓ କାର୍ଯ୍ୟାଳୟ ମ୍ୟାନେଜରଙ୍କର ମଧ୍ୟରେ ପରସ୍ପର ସହ ଯୁକ୍ତିତର୍କ ଲାଗିରହିଛି । ଯୁବକ ମାନଙ୍କର ଯୁକ୍ତି ଯେ କାରଖାନାରୁ ନିର୍ଗତ ହେଉଥିବା ବାଷ୍ପର କୁପ୍ରଭାବ ଫଳରାଶି ଭାବରେ ପଡ଼ିବା ସଙ୍ଗେ ସଙ୍ଗେ ଆଖପାଖରେ ଜନସାଧାରଣ ନିଶ୍ୱାସ ପ୍ରଶ୍ୱାସ ନେବାରେ କଷ୍ଟ ଅନୁଭବ କରୁଛନ୍ତି । ଏକ ବେସରକାରୀ ସ୍ୱେଚ୍ଛାସେବୀ ଅନୁଷ୍ଠାନ ଦ୍ୱାରା ହୋଇଥିବା ଏକ ତାଲିମ କାର୍ଯ୍ୟକ୍ରମ ମାଧ୍ୟମରେ ଯୁବକମାନେ ଜାଣିବାକୁ ପାଇଛନ୍ତି ଯେ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ଼ ଶିଳ୍ପ ସଂସ୍ଥାକୁ ବାୟୁର ମାନ ପରୀକ୍ଷା ଏହାର ଲକ୍ଷିତ ବିବରଣୀ ବୋର୍ଡ଼କୁ ପ୍ରଦାନ କରିବାପାଇଁ ନିର୍ଦ୍ଦେଶ ଦେଇଛନ୍ତି । ଏହା ଜାଣିବାପରେ ଏ ବାବଦରେ କଣ କରିବାକୁ ହେବ ଏବଂ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ଼ ନେଇଥିବା ପଦକ୍ଷେପର କଣ ପରିଣାମ ହେବ ସେ ସମ୍ପର୍କରେ ଯୁବକମାନେ ଜାଣିପାରୁ ନାହାଁନ୍ତି । ସେମାନେ ଗୋଷ୍ଠୀ ସଂଗଠକଙ୍କୁ ଏ ସମ୍ପର୍କରେ ସାହାଯ୍ୟ କରିବା ପାଇଁ ଅନୁରୋଧ କରିଛନ୍ତି ।

ଏଠାରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହୋଇଛି କି?

କୋଇଲା କିମ୍ବା ଗ୍ୟାସ ଆଧାରିତ ତାପଜ ବିଦ୍ୟୁତ୍ ଶିଳ୍ପକୁ ପରିବେଶ ପ୍ରଭାବ ଏବଂ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ସଂକ୍ରାନ୍ତରେ ଅନେକ ନିୟମକ ସଂସ୍ଥାମାନଙ୍କର ଠାରୁ ଅନୁମତି ଆଣିବାକୁ ପଡ଼େ । ଅନୁମତି ପ୍ରଦାନରେ ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନ ପ୍ରଦୂଷିତ ବାୟୁ ନିର୍ଗମନକୁ ହ୍ରାସ କରିବା ନିମନ୍ତେ ଆବଶ୍ୟକ ଯାନ୍ତ୍ରିକ ବିଜ୍ଞାନ ସମ୍ପନ୍ନୀୟ କୌଶଳ ବିଷୟରେ ଉଲ୍ଲେଖ କରାଯାଇଥାଏ । ତତ୍ସହିତ ବାୟୁର ମାନକୁ କିପରି ଭାବରେ ତଦାରଖ କରାଯିବ ଏବଂ କେତୋଟି ବାୟୁର ମାନ ପରିକ୍ଷଣ କେନ୍ଦ୍ର ସ୍ଥାପନ କରାଯିବ ସେ ବାବଦରେ ନିର୍ଦ୍ଦିଷ୍ଟ ବ୍ୟବସ୍ଥା ଉଲ୍ଲେଖ କରାଯାଏ । ପ୍ରଦୂଷିତ ବାୟୁ ନିର୍ଗମନ ଛଡ଼ା ବିଦ୍ୟୁତ୍ ଉତ୍ପାଦନ କେନ୍ଦ୍ର ବିଦ୍ୟୁତ୍ ଉତ୍ପାଦନ ପ୍ରକ୍ରିୟାରେ ସୃଷ୍ଟି ହେଉଥିବା ପାଇଁଶକୁ ଏଣେତେଣେ ଗଦା କରିବା ଫଳରେ ବାୟୁ ପ୍ରଦୂଷଣ କରିଥାନ୍ତି । ଏହା ସଂପୃକ୍ତ ଅଞ୍ଚଳର ବାୟୁକୁ ପ୍ରଦୂଷିତ କରିଥାଏ ।

Photo credit: Kanchi Kohli / ଫଟୋ ଚିତ୍ର ଶ୍ରେୟ: କାଂଡ଼ି କୋହିଲି

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. EIA Notification, 2006: Check whether the plant has obtained the environmental clearance required for thermal power plants. If yes, check if there is a violation of a specific condition.	1. SEIAA (if Category B project) 2. MoEFCC (if Category A project)	Section 2 and related procedures Schedule of the EIA Notification and specifically Section 1 (d) Specific conditions related to setting up of air quality monitoring stations and following emission standards
2. Air (Prevention and Control of Pollution) Act, 1981: Check whether the consents to establish and operate have been sought and if their conditions are being complied with.	SPCB	Section 17 (1) (e); Section 17 (1) (f) (on inspections and monitoring) and Section 18 (on power to give directions against violations) Specific conditions related to technology for pollution control and setting up of air quality monitoring stations
3. Fly Ash Notification, 1999 (with the latest amendments up to 2016):	1. SPCB 2. MoEFCC	Notification regulating the disposal of fly ash to minimise impact
State specific guidelines		
4. Guidelines for Handling Coal Units, 2010 (Gujarat)/ Guidelines for Mineral Stacks and Railway Siding Guidelines	SPCBs	Check whether specific guidelines have been issued which has conditions related to storage, transportation and handling of minerals
Site Specific Laws		
5. ESA, CVCA, Critically Polluted Area, etc.: Check whether any special orders, notifications or guidelines have been issued to protect or conserve this area or restrict activity under the declaration of an ESA, CVCA, Critically Polluted Area or so on	1. MoEFCC 2. CZMA 3. PCB	1. Section 3 (2) v of the EPA, 1986 2. Section 4 of the CRZ Notification, 2011 3. Section 19 of the Air Act, 1981
Public nuisance under criminal law		
6. The Indian Penal Code 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines a public nuisance

ଆଇନ୍	ସମ୍ପର୍କୀତ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ଇଆଇଏ ନୋଟିଫିକେସନ୍, ୨୦୦୬ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି, ୨୦୦୬): ତାପକ ବିଦ୍ୟୁତ୍ କେନ୍ଦ୍ର ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ	୧. “ଶ” ଶ୍ରେଣୀ (“ବି” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ଷ୍ଟେଟ୍ ଏନ୍‌ଭାଇରନ୍‌ମେଣ୍ଟ ଇମ୍ପ୍ରୋଭମେଣ୍ଟ ଆସେସମେଣ୍ଟ ଅଥରିଟି (ଏସ୍.ଇ.ଆଇ.ଏ.ଏ)। ୨. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ କଳ୍ପ କଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ଇଆଇଏ ନୋଟିଫିକେସନ୍ ର ସୂଚୀ ଓ ବିଶେଷ କରି ଅନୁକ୍ଳେଦ-୧ (ଘ) ଇଆଇଏ ନୋଟିଫିକେସନ୍, ୨୦୦୬ର ଅନୁକ୍ଳେଦ-୨ ଏବଂ ସମ୍ପର୍କୀତ କାର୍ଯ୍ୟପଦ୍ଧତି ମାନ ପରୀକ୍ଷଣ କେନ୍ଦ୍ର ପ୍ରତିଷ୍ଠା ଓ ନିର୍ଦ୍ଦିଷ୍ଟ ମାନକର ଅନୁପାଳନ ବିଷୟକ ବିଶେଷ ସୂଚୀବଳୀ
୨. ବାୟୁ (ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଆଇନ୍, ୧୯୮୧ ରେ ପ୍ରଣୟନ ହୋଇଥିଲା (ଶିଳ୍ପ ପ୍ରତିଷ୍ଠା ଓ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ମତି)	ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	ଅନୁକ୍ଳେଦ-୧୭ ୧ (ଡ), ଅନୁକ୍ଳେଦ-୧୭ (୧) (ଡ) (ଯାଞ୍ଚ ଓ ତଦାରଖ ନିମନ୍ତେ) ଅନୁକ୍ଳେଦ-୧୮ (ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହେଲେ ନିର୍ଦ୍ଦେଶ ଦେବା ପାଇଁ କ୍ଷମତା) ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ପାଇଁ ଯାନ୍ତ୍ରିକ ବିଜ୍ଞାନର ପ୍ରୟୋଗ ଓ ବାୟୁର ମାନ ତଦାରଖ କେନ୍ଦ୍ର ସ୍ଥାପନ ସମ୍ପର୍କୀତ ନିର୍ଦ୍ଦିଷ୍ଟ ସୂଚୀବଳୀ।
୩. ଫ୍ଲାଇଆସ୍ ନୋଟିଫିକେସନ୍, ୧୯୯୯ (୨୦୧୬ ସଂଶୋଧନ ସହିତ ଏଥିରେ ହୋଇଥିବା ସଂଶୋଧନ ସହିତ)	୧. ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ୨. ପରିବେଶ କଳ୍ପ ଏବଂ କଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ପ୍ରଭାବକୁ ସର୍ବନିମ୍ନ ସ୍ତରକୁ ଆଣିବା ପାଇଁ ଫ୍ଲାଇଆସ୍ ନିଷ୍କାସନ ନିୟନ୍ତ୍ରଣ ସମ୍ପର୍କୀତ ବିଜ୍ଞପ୍ତି।
ନିର୍ଦ୍ଦିଷ୍ଟ ରାଜ୍ୟର ଆଇନ୍		
୪. ରାଜ୍ୟ ବିଶେଷକ ଦିଶାନିର୍ଦ୍ଦେଶ ଯଥା- କୋଇଲା ପରିଚାଳନା, କେନ୍ଦ୍ର ପାଇଁ ଦିଶାନିର୍ଦ୍ଦେଶ, ଖଣିଜପଦାର୍ଥ ଗଦା କରିବା ବାବଦରେ ଦିଶାନିର୍ଦ୍ଦେଶ ଏବଂ ରେଲ୍ୱେ ସାଇଡିଂ ଗାଇଡଲାଇନ୍ସ।	ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	ଦେଖିବାକୁ ହେବ ଯେ ଖଣିଜ ପଦାର୍ଥ ମହଜୁଦ୍ କରିବା, ପରିବହନ ଓ ପରିଚାଳନା ସମ୍ପର୍କରେ ବିଶେଷ ଦିଶାନିର୍ଦ୍ଦେଶ କାର୍ଯ୍ୟ ହୋଇଛି କି ନାହିଁ।
ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୫. ଇସ୍‌ଏ, ସିଭିସିଏ, ସିଭିପିଆଇ : ଇସ୍‌ଏ ସିଭିସିଏ, ସଙ୍କଟାପନ୍ନ ପ୍ରଦୂଷିତ ଅଞ୍ଚଳ ଇତ୍ୟାଦି କାର୍ଯ୍ୟକଳାପକୁ ବାରଣ କରିବା ପାଇଁ ଓ ସଂପୃକ୍ତ ଅଞ୍ଚଳକୁ ସୁରକ୍ଷା ଦେବା ପାଇଁ କିମ୍ବା ସଂରକ୍ଷଣ ଉଦ୍ଦେଶ୍ୟରେ ବିଶେଷ ଆଦେଶ, ବିଜ୍ଞପ୍ତି କିମ୍ବା ନୀତିନିୟମ ପ୍ରଣୟନ କରାଯାଇଛି କି ନାହିଁ।	୧. ପରିବେଶ, କଳ୍ପ ଓ କଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ ୨. କୋଷ୍ଟାଲ୍‌କୋର୍ଡ ମ୍ୟାନଜମେଣ୍ଟ ଅଥରିଟି ୩. ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	୧. ପରିବେଶ ପ୍ରଦୂଷଣ ଆଇନ୍, ୧୯୮୬ର ଅନୁକ୍ଳେଦ-୩(୨) ଭି ସିଆର୍‌କେଡ୍ ନୋଟିଫିକେସନ୍, ୨୦୧୧ର ଅନୁକ୍ଳେଦ-୪ ଏଆର୍ ଆକ୍ଟ, ୧୯୮୧ ର ଅନୁକ୍ଳେଦ - ୧୯
ଫୌଜଦାରୀ ଆଇନ୍ ଅନୁଯାୟୀ କନ ଜାବନରେ କ୍ଷତ		
୬. ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍, ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁକ୍ଳେଦ-୧୯ ଅନୁଯାୟୀ ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିକୁ ବିଚାରପତିର ନ୍ୟାୟିକ କ୍ଷମତା ଅନୁକ୍ଳେଦ-୨୬୮ ଯାହା କନଜାବନରେ କ୍ଷତିର ସଂଜ୍ଞା ନିରୂପଣ କରିଅଛି।

CONDITIONS FROM AN ENVIRONMENTAL CLEARANCE LETTER OF A THERMAL POWER PLANT

- Adequate Ambient Air Quality Monitoring Stations (at least 4) shall be established in the core as well as in the buffer zone and locations shall be decided in consultation with the Regional Officer (RO), SPCB. Monitoring of parameters shall be done.
- Monitoring of the Ambient Air Quality of the mine shall be done once in a fortnight (24 hourly) and data shall be submitted to the SPCB once in six months.
- Continuous real time Ambient Air Quality monitoring shall be conducted at two appropriate locations. Location of continuous online monitoring stations with data transfer facility to the SPCB server shall be decided keeping in view the impact of the coal mine and in consultation with the RO, SPCB
- Ambient Air Quality monitoring data shall be electronically displayed at the entry point of the mine or at a suitable location in the mine.

ତାପଜ ବିଦ୍ୟୁତ୍‌କେନ୍ଦ୍ରକୁ ପ୍ରଦାନ କରାଯାଇଥିବା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ ସର୍ତ୍ତ

- ଆଞ୍ଚଳିକ ଅଧିକାରୀ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ସହ ପରାମର୍ଶ କରି ଯଥେଷ୍ଟ ସଂଖ୍ୟକ (ଅତି କମ୍ରେ ୪ଟି) ପାରିପାର୍ଶ୍ୱିକ ବାୟୁର ମାନ ପରୀକ୍ଷଣ କେନ୍ଦ୍ର ଖଣି କେନ୍ଦ୍ର ଅଞ୍ଚଳ, ଖଣି କେନ୍ଦ୍ର ଅଞ୍ଚଳ ଓ ଅଣ ଖଣି ଅଞ୍ଚଳର ମଧ୍ୟସ୍ଥଳ ଓ ଅନ୍ୟାନ୍ୟ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ସ୍ଥାନରେ ପ୍ରତିଷ୍ଠା କରାଯିବ । ବାୟୁ ପରୀକ୍ଷଣର ପରିମେୟ (ପରାମିଟର) ନିର୍ଣ୍ଣୟ କରାଯିବ ।
- ପାରିପାର୍ଶ୍ୱିକ ବାୟୁର ମାନର ୨ ଟି ଉପାଦାନ ପରୀକ୍ଷଣ ପ୍ରତି ୧୫ ଦିନରେ ଥରେ କରାଯାଇ ତଥ୍ୟକୁ ୬ ମାସରେ ଥରେ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡରେ ଦାଖଲ କରାଯିବ ।
- ଦୁଇଟି ଉପଯୁକ୍ତ ସ୍ଥାନରେ ନିରନ୍ତରଭାବେ ପାରିପାର୍ଶ୍ୱିକ ବାୟୁର ମାନ ପରୀକ୍ଷଣ କରାଯିବ । କୋଇଲା ଖଣିର ପ୍ରଭାବକୁ ଦୃଷ୍ଟିରେ ରଖି ଅନୁଲାଇନ୍ ପରୀକ୍ଷଣ କେନ୍ଦ୍ର ଗୁଡ଼ିକର ସ୍ଥାନ ନିର୍ଦ୍ଧାରଣ ଏବଂ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ବୋର୍ଡ ସର୍ଭରକୁ ତଥ୍ୟ ପ୍ରେରଣର ସୁବିଧା ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡର ଆଞ୍ଚଳିକ ଅଧିକାରୀଙ୍କ ସହ ପରାମର୍ଶ କରି କରାଯିବ ।
- ପାରିପାର୍ଶ୍ୱିକ ବାୟୁର ମାନ ସମ୍ପର୍କିତ ତଥ୍ୟ ବୈଦ୍ୟୁତିକ ପ୍ରଦର୍ଶନ ବୋର୍ଡ ଦ୍ୱାରା ଖଣି ପ୍ରବେଶ ସ୍ଥାନରେ କିମ୍ବା ଖଣିର ଅନ୍ୟ କୌଣସି ଉପଯୁକ୍ତ ସ୍ଥାନରେ ପ୍ରଦର୍ଶିତ ହେବ ।

SCENARIO 8

What is the complaint?

There has been a spill in a Treatment, Storage and Disposal Facility (TSD) leading to leakage of hazardous waste. The TSD site is linked to a nearby cluster of industries and the waste from at least four to five chemical industries is stored and treated here. The spill is reportedly due to the collapse of the retainer wall around the TSD site. The hazardous chemical waste has spilt into nearby agricultural fields and also contaminated the ground water. The farmers suspect that the wall of the facility collapsed due to an overload of waste. The impact was aggravated because the waste was not covered, and with recent rains in the area, it easily made its way into the nearby farm lands. This contamination has rendered the farm lands unfit for agriculture. The farmers are upset and are demanding compensation. They approached a community based legal practitioner or paralegal to help them.

Is a law being violated?

There are three clear aspects of violation to be considered here. Firstly, liability for negligence; secondly, understanding the mandatory legal requirements for TSD sites and thirdly the manner in which compensation will be calculated. Understanding the liability for negligence or compensation might take us beyond the realm of environment or pollution related laws. The legal compliance of a TSD site may have specific guidelines or may be embedded within air and water pollution related legislations.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ-୮

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ବିଶୋଧନ, ମହଜୁଦ୍ ଏବଂ ନିଷ୍କାସନ କେନ୍ଦ୍ରରୁ ହାନିକାରକ ପଦାର୍ଥ ବାହାରକୁ ଚାଲିଆସିଛି। ଏହି ବିଶୋଧନ କେନ୍ଦ୍ରଟି ନିକଟବର୍ତ୍ତୀ କେତେଗୁଡ଼ିଏ ଶିଳ୍ପକାରଖାନା ସହ ସଂଯୋଗିତ ଏବଂ ଅତିକମରେ ୪-୫ଟି ରାସାୟନିକ ପଦାର୍ଥ କାର୍ବର କରୁଥିବା ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନର ବର୍ଜ୍ୟବସ୍ତୁ ଏଠାରେ ବିଶୋଧନ କରାଯାଏ। ବର୍ଜ୍ୟବସ୍ତୁ ପରିସର ମଧ୍ୟରେ ଆବଦ୍ଧ କରି ରଖିବା ପାଇଁ ଉଦ୍ଦିଷ୍ଟ ବିଶୋଧନ କେନ୍ଦ୍ର କାନ୍ଥ ଭାଙ୍ଗିଯିବା ଫଳରେ ହାନିକାରକ ପଦାର୍ଥ ବାହାରକୁ ଚାଲିଆସିଛି। ହାନିକାରକ ରାସାୟନିକ ବର୍ଜ୍ୟ ପଦାର୍ଥ ଚାଷଜମିକୁ ମାଡ଼ିଯିବା ସଙ୍ଗେ ସଙ୍ଗେ ଭୂତଳ ଜଳକୁ ମଧ୍ୟ ସଂକ୍ରମିତ କରିଛି। ଚାଷୀମାନେ ଆଶଙ୍କା କରୁଛନ୍ତି ଯେ ବିଶୋଧନ କେନ୍ଦ୍ର କାନ୍ଥ ଉପରେ ଅଧିକ ମାତ୍ରାରେ ବର୍ଜ୍ୟବସ୍ତୁ ଠୁଳ କରାଯାଇଥିବାର ମାତ୍ରାଧିକ ଓଜନ ଯୋଗୁଁ ଏହା ଭାଙ୍ଗିଯାଇଛି। ବର୍ଜ୍ୟବସ୍ତୁକୁ ଘୋଡ଼ାଇ ନରଖାଯାଇଥିବାରୁ ଏବଂ ନିକଟ ଅତୀତରେ ହୋଇଥିବା ବର୍ଷାଯୋଗୁଁ ଜଳସ୍ରୋତ ସୃଷ୍ଟିହୋଇ ହାନିକାରକ ପଦାର୍ଥ ଚାଷଜମିକୁ ମାଡ଼ିଯାଇ ଗମ୍ଭୀର ପରିସ୍ଥିତି ଉତ୍ପନ୍ନ ହୋଇଛି। ସଂକ୍ରମଣ ଯୋଗୁଁ କୃଷିକ୍ଷେତ୍ର ଚାଷ ଅନୁପଯୋଗୀ ହୋଇଯାଇଛି। ଏହା କୃଷକମାନଙ୍କୁ ଦୁଃଖିତ କରିଛି ଓ ସେମାନେ କ୍ଷତିପୂରଣ ଦାବୀ କରୁଛନ୍ତି। ସେମାନେ ଏହି ସମସ୍ୟା ବାବଦରେ ଗୋଷ୍ଠୀ ସ୍ତରରେ କାମ କରୁଥିବା ଆଇନଜୀବି ବା ଆଇନ୍ ସହାୟକଙ୍କୁ ଅବଗତ କରିଛନ୍ତି।

ଏଠାରେ ଆଇନ ଉଲଙ୍ଘନ ହୋଇଛି କି ?

ଏଠାରେ ଉଲଙ୍ଘନର ତିନୋଟି ଦିଗକୁ ବିଚାରକୁ ନେବାକୁ ହେବ, ପ୍ରଥମତଃ; ଅବହେଳା ଯୋଗୁଁ ଉତ୍ତରଦାୟିତ୍ୱ, ଦ୍ୱିତୀୟତଃ; ବିଶୋଧନ କେନ୍ଦ୍ରର ଅବସ୍ଥିତି ବିଷୟକ ବାଧ୍ୟତାମୂଳକ ଆଇନଗତ ଆବଶ୍ୟକତା ଏବଂ ତୃତୀୟତଃ; କେଉଁ ପଦ୍ଧତିରେ କ୍ଷତିପୂରଣ ଦେୟ ପରିମାଣ ନିର୍ଣ୍ଣୟ କରାଯିବ। ଅବହେଳା ପାଇଁ ଉତ୍ତରଦାୟିତ୍ୱ ଏବଂ କ୍ଷତିପୂରଣ ବିଷୟକ ଆଲୋଚନା ପାଇଁ ଆମକୁ ପରିବେଶ କିମ୍ବା ପ୍ରଦୂଷଣ ସମ୍ପର୍କିତ ଆଇନର ପରିସର ବାହାରକୁ ଯିବାକୁ ହେବ। ବିଶୋଧନ କେନ୍ଦ୍ରର ଅବସ୍ଥିତି ବାବଦରେ ଥିବା ଆଇନ ବ୍ୟବସ୍ଥା ନିର୍ଦ୍ଦିଷ୍ଟ ନୀତିନିୟମ କିମ୍ବା ବାୟୁ ଓ ଜଳ ପ୍ରଦୂଷଣ ସମ୍ପର୍କିତ ଆଇନ ମଧ୍ୟରେ ସମ୍ବନ୍ଧିତ ହୋଇଥାଇପାରେ।



Photo credit: Kanchi Kohli / ଫଟୋ ଚିତ୍ର ଶ୍ରେୟ: କାଂଡି କୋହିଲି

Law	Corresponding Institutions/Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. EIA Notification, 2006: Check whether environmental clearances have been obtained with respect to the industries and the TSDF. If yes, check the status of compliance with their conditions.	1. MoEFCC (if Category A project) 2. SEIAA (if Category B project)	Section 2 and related procedures Schedule of the EIA Notification and specifically Sections 7 (d)
2. Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016:	1. SPCB 2. Central Pollution Control Board (CPCB)	Sections 23 (1) and Section 16 (esp. Clause 16 (2) and 16 (4))
3. Reports to CPCB/SPCB	1. CPCB 2. SPCB	Test Reports and Environment Statements (ES) provided by the operator to the SPCB
Negligence and Compensation		
4. Public Liability Insurance Act, 1991: Check whether damage and compensation can be determined	1. District Collector 2. MoEFCC	Sections 3, 5, 6 and 8 and the Schedule
5. EPA, 1986: Check whether a fine or imprisonment for an offence apply	MoEFCC or its designated agency such as the SPCB	Section 15

ଆଇନ୍	ସମ୍ପର୍କୀତ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ପର୍କିତ ଆଇନ୍		
୧. ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍, ୨୦୦୬ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି, ୨୦୦୬): ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନ, ବିଶୋଧନ କେନ୍ଦ୍ର କିମ୍ବା ପାଇପ୍ ଲାଇନ୍ ନିର୍ମାଣ ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ ବିଶେଷ ସର୍ତ୍ତର ଖିଲାପ ।	୧. ପରିବେଶ, ଓ ଜଳବାୟୁ ଜଙ୍ଗଲ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ ୨. “ଖ” ଶ୍ରେଣୀ (“ବି” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ଷ୍ଟେଟ୍ ଏନଭାଇରନ୍ମେଣ୍ଟ ଇମ୍ପ୍ରୋଭମେଣ୍ଟ ଆସୋସିଏସନ୍ ଅଥରିଟି (ରାଜ୍ୟ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ)	ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍ର ସୂଚୀ ଏବଂ ବିଶେଷ କରି ଅନୁକ୍ଳେଦ-୬ (ଘ) ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍, ୨୦୦୬ର ଅନୁକ୍ଳେଦ-୨ ତତ୍ ସମ୍ପର୍କିତ କାର୍ଯ୍ୟପଦ୍ଧତି ।
୨. ହାଜାର୍ଡସ୍ ଏଣ୍ଡ ଅଦର ୱେଷ୍ଟସ୍ (ମ୍ୟାନେଜମେଣ୍ଟ ଏଣ୍ଡ ଟ୍ରାନ୍ସ ବାଉଣ୍ଡରୀ ମୁଭ୍ମେଣ୍ଟ) ନିୟମାବଳୀ, ୨୦୧୬	୧. ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ୨. କେନ୍ଦ୍ର ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	ଅନୁକ୍ଳେଦ- ୧୬ ବିଶେଷକରି ଧାରା ୧୬ (୨) ଏବଂ ୧୬ (୪) ଧାରା ୨୩ (୧)
୩. କେନ୍ଦ୍ର ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ / ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡକୁ ଲିଖିତ ସୂଚନା ପ୍ରଦାନ	୧. କେନ୍ଦ୍ର ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ୨. ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	କାର୍ଯ୍ୟକାରୀ କରୁଥିବା ସଂସ୍ଥାଦ୍ୱାରା ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡକୁ ପରୀକ୍ଷା ଓ ପରିବେଶସ୍ଥିତି ସମ୍ପର୍କୀତ ଲିଖିତ ବିବରଣୀ ପ୍ରଦାନ
ଅବହେଳା ଓ କ୍ଷତିପୂରଣ		
୪. ଦି ପବ୍ଲିକ୍ ଲିଏବିଲିଟି ଇନ୍ସୁରାନ୍ସ ଆକ୍ଟ ୧୯୯୧ (କ୍ଷତିର ମାତ୍ରା ଓ କ୍ଷତିପୂରଣର ପରିମାଣ ନିର୍ଣ୍ଣୟ କରିବା ପାଇଁ)	୧. ଜିଲ୍ଲା କଲେକ୍ଟର ୨. ପରିବେଶ, ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ଅନୁକ୍ଳେଦ-୩, ୪, ୬, ୮ ଏବଂ ସୂଚୀ
୫. ଏନଭାଇରନ୍ମେଣ୍ଟ ପ୍ରୋଟେକ୍ସନ୍ ଆକ୍ଟ ୧୯୮୬ (ପରିବେଶ ସୁରକ୍ଷା ଆଇନ ୧୯୮୬) ଅପରାଧ ପାଇଁ ଜେଲଦଣ୍ଡ କିମ୍ବା ଜୋରିମନା	ପରିବେଶ, ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ କିମ୍ବା ଏହାଦ୍ୱାରା ମନୋନୀତ ସଂସ୍ଥା ଯଥା- ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ	ଅନୁକ୍ଳେଦ- ୧୫



Photo credit: Aubrey Wade / EPFOA ଗିଡ଼ ଶ୍ରେୟ: ଆଲ୍ଡେ ବାଦେ

SCENARIO 9

What is the complaint?

During a visit to a hilltop village adjoining a bustling coastal town, a community worker noticed a heap of garbage at the outskirts of the village. The dump was close to a forest patch. When she spoke to the residents, they mentioned to her that this was a routine occurrence and done by the municipality itself. They were troubled by this and had told the officials that it is difficult for them to live next to the stench. They also shared that the open and untreated garbage was attracting flies and feared impacts on their health due to the spread of diseases. The garbage was also being blown into their houses when the wind was strong on the hilltop. During monsoons, there had also been one instance of run off of the garbage into the water stream flowing towards the villages downhill.

Is a law being violated?

The immediate legal avenue to look into, in this case, would be the laws and guidelines related to the management of solid waste. However, there could be some site-specific laws too that could be looked into to see if there are any specific provisions concerning waste disposal. Since the waste that is being dumped is causing a nuisance to the public, provisions under the IPC can also be examined.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ-୯

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଏକ ବ୍ୟସ୍ତବହୁଳ ସମୁଦ୍ର ଉପକୂଳରେ ଅବସ୍ଥିତ ସହରର ସମୀପବର୍ତ୍ତୀ ପର୍ବତ ଉପରେ ଅବସ୍ଥିତ ଗ୍ରାମକୁ ବୁଲିଯାଇଥିବା ବେଳେ ଗୋଷ୍ଠୀ ସମାଜକର୍ମୀ ଗାଁର ଉପାନ୍ତ ଅଞ୍ଚଳରେ ଆବର୍ଜନା ଗଦା ଦେଖିବାକୁ ପାଇଲେ । ଆବର୍ଜନା ଗଦାଟି ଏକ ଜଙ୍ଗଲ ଜମି ପାଖରେ ଥିଲା ଏବଂ ଗ୍ରାମବାସୀଙ୍କର ସହ ଆଲୋଚନା କରିବାରୁ ଜଣାପଡ଼ିଲା ଯେ ଆବର୍ଜନାକୁ ଏଠାରେ ଗଦାକରିବା ନିତ୍ୟନିୟମିତ ରୂପେ ହୋଇଆସୁଅଛି ଓ ମ୍ୟୁନିସିପାଲିଟି କାମଟି କରିଆସୁଅଛି । ଏହା ଯୋଗୁଁ ସେମାନେ ଅସୁବିଧାର ସମ୍ମୁଖୀନ ହେଉଛନ୍ତି ଏବଂ ଦୁର୍ଗନ୍ଧମୟ ସ୍ଥାନ ଆଖପାଖରେ ସେମାନେ ରହିବା କଷ୍ଟକର ବୋଲି ଅଧିକାରୀଙ୍କୁ ଜଣାଇସାରିଛନ୍ତି । ଆବର୍ଜନାକୁ ଖୋଲାରେ ଗଦା କରିବା ଏବଂ ଏହାକୁ କୌଣସି ପ୍ରକାରେ ବିଶୋଧନ ନକରିବା ଯୋଗୁଁ ଏହା ଅନେକ ପୋକ ଜୋକଙ୍କୁ ଆକୃଷ୍ଟ କରୁଛି ଏବଂ ଗ୍ରାମବାସୀ ଏହାର କୁପ୍ରଭାବ ସେମାନଙ୍କର ସ୍ୱାସ୍ଥ୍ୟ ଉପରେ ପଡ଼ିବ ବୋଲି ଆଶଙ୍କା କରୁଛନ୍ତି । ଆହୁରି ମଧ୍ୟ ଜୋରରେ ପବନ ହେଲେ ଅଳିଆ ପବନରେ ଉଡ଼ିଆସି ଗ୍ରାମବାସୀଙ୍କର ଘର ଭିତରେ ପଡ଼ୁଛି । ବର୍ଷାଦିନରେ ଆବର୍ଜନା ଜଳସ୍ରୋତରେ ମିଶି ପାହାଡ଼ତଳେ ଥିବା ଗ୍ରାମର ଜଳଉତ୍ସକୁ ଦୂଷିତ କରୁଥିବାରୁ ନଜର ମଧ୍ୟ ଅଛି ।

ଏଠାରେ ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହେଉଛି କି ?

ଏହି ପରିସ୍ଥିତିରେ ଆଇନର ଦୃଷ୍ଟିକୋଣରୁ ଆମକୁ କଠିନ ବର୍ଜ୍ୟବସ୍ତୁ ପରିଚାଳନା ସମ୍ବନ୍ଧୀୟ ଆଇନ ଓ ନୀତିନିୟମକୁ ଦେଖିବାକୁ ହେବ । ସ୍ଥାନ ଅବସ୍ଥିତି ବିଶେଷକ ଆଇନକୁ ମଧ୍ୟ ଆମକୁ ଖୋଜିବାକୁ ହେବ । କାରଣ ସ୍ଥାନ-ଅବସ୍ଥିତି ବିଶେଷରେ ବର୍ଜ୍ୟବସ୍ତୁ ପରିଚାଳନା କରିବା ସମ୍ବନ୍ଧରେ ନିର୍ଦ୍ଦିଷ୍ଟ ବ୍ୟବସ୍ଥା ଥିଲେ ଏହାକୁ ଆମେ ଏଠାରେ ବ୍ୟବହାର କରିପାରିବା । ଆହୁରି ମଧ୍ୟ ଯେହେତୁ ଆବର୍ଜନା ଗଦା ହେବା ଫଳରେ ଏହା ସାଧାରଣ ଜନଜୀବନକୁ ବିପର୍ଯ୍ୟସ୍ତ କରୁଛି ତେଣୁ ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ସଂହିତାରେ ଅନ୍ତର୍ଭୁକ୍ତ ବ୍ୟବସ୍ଥାକୁ ମଧ୍ୟ ଆମେ ଏ କ୍ଷେତ୍ରରେ ପ୍ରୟୋଗ କରିପାରିବା ।

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related		
1. Solid Waste Management Rules, 2016 Check whether the activity has obtained the authorisation to set up waste processing and disposal facility by the SPCB. If yes, check if there is a violation of any of the clauses of the rules	1. SPCB 2. District Magistrate/Deputy Commissioner 3. Secretary in charge, State Urban Development Department	
2. EIA Notification, 2006	SEIAA	Section 2 and specifically Section 7 (d) of the Schedule
Site specific laws		
3. FCA, 1980: Check whether the activity is being carried out on forest land and if permission for forest diversion is required	1. Divisional Forest Officer 2. MoEFCC (Regional and New Delhi office)	Section 2
Public nuisance under criminal law		
4. IPC, 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines a public nuisance
Judgments/Judicial Orders		
5. National Green Tribunal order in Almitra H. Patel & Anr vs Union of India & Ors (O.A. No 199 of 2014):		Directions regarding the management (including disposal, transportation) of waste can be looked into

ଆଇନ୍	ସମ୍ବନ୍ଧୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ସଲିଡ୍ ୱେଷ୍ଟ ମ୍ୟାନେଜମେଣ୍ଟ ରୁଲ୍ସ, ୨୦୧୬ (କଠିନ ବର୍ଜ୍ୟବସ୍ତୁ ପରିଚାଳନା ନିୟମାବଳୀ, ୨୦୧୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ସଂସ୍ଥା ବର୍ଜ୍ୟବସ୍ତୁ ପ୍ରକ୍ରିୟାକରଣ ଏବଂ ଏହାକୁ ଯଥା ସ୍ଥାନରେ ଠୁଳ କରିବା ପାଇଁ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ଦ୍ୱାରା ଅଧିକୃତ ହୋଇଛି ନା ନାହିଁ । ଯଦି ହଁ, ତେବେ ଦେଖିବାକୁ ହେବ ଯେ ଏହା ନିୟମାବଳୀର କୌଣସି ଧାରାକୁ ଉଲ୍ଲଙ୍ଘନ କରୁଛି ନା ନାହିଁ ।	୧. ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ୨. ଜିଲ୍ଲା ମାଜିଷ୍ଟ୍ରେଟ/ଉପ-କମିଶନର ୩. ରାଜ୍ୟ ସହରୀ ବିକାଶ ବିଭାଗ ସଚିବ ।	
୨. ଏନ୍‌ଭାଇରନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ନୋଟିଫିକେସନ୍ ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି, ୨୦୦୬)	୧. ଷ୍ଟେଟ୍ ଏନ୍‌ଭାଇରନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ଅଥରିଟି (ରାଜ୍ୟ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ)	ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍ ଅନୁକ୍ଳେଦ-୨ ଏବଂ ବିଶେଷକରି ଅନୁକ୍ଳେଦ-୨ (ସ)
ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୩. ଫରେଷ୍ଟ କନଜର୍ଭେସନ୍ ଆକ୍ଟ ୧୯୮୦ (ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍ ୧୯୮୦): କାର୍ଯ୍ୟକ୍ରମ ଜଙ୍ଗଲ ଜମିରେ ହେଉଛି କି ଏବଂ ଏଥିପାଇଁ ଜଙ୍ଗଲ ଜମିର ଅଣ ଜଙ୍ଗଲ କାର୍ଯ୍ୟରେ ବ୍ୟବହାର ପାଇଁ ଅନୁମତି ନେବାର ଆବଶ୍ୟକତା ଅଛି କି ?	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ ୨. ପରିବେଶ ଓ ଜଙ୍ଗଲ ମହଣାଳୟ (ଆଞ୍ଚଳିକ ଓ ନୂଆଦିଲ୍ଲୀ କାର୍ଯ୍ୟାଳୟ)	ଫରେଷ୍ଟ କନଜର୍ଭେସନ୍ ଆକ୍ଟ ୧୯୮୦, ଅନୁକ୍ଳେଦ - ୨
ଫୌଜଦାରୀ ଆଇନରେ ଜନଜୀବନରେ କ୍ଷତି		
୪. ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍, ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁକ୍ଳେଦ-୧୯ ଅନୁଯାୟୀ ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିଙ୍କର ବିଚାରପତିର ନ୍ୟାୟିକ କ୍ଷମତା ଅଛି ଅନୁକ୍ଳେଦ ୨୬୮ ଯାହା ଜନଜୀବନ ର କ୍ଷତିକୁ ସଂଜ୍ଞା ପ୍ରଦାନ କରିଛି
କୋର୍ଟ ନିଷ୍ପତ୍ତି/ ବିଚାରାଳୟ ଆଦେଶ		
୫. ଅଲମିତ୍ରା ଏଚ. ପଟେଲ ଭରସେସ୍ ମୁନିଅନ୍ ଅଫ୍ ଇଣ୍ଡିଆ (ଓ.ଏ.ନଂ. ୧୯୯-୨୦୧୪) ରେ ଜାତୀୟ ସବୁଜ ତ୍ରିବୁନାଲ୍ ର ଆଦେଶ		ବର୍ଜ୍ୟବସ୍ତୁ ପରିଚାଳନା (ପରିବହନ ଓ ଯଥା ସ୍ଥାନରେ ଠୁଳ କରିବା) ସମ୍ବନ୍ଧରେ ଦିଆଯାଇଥିବା ନିର୍ଦ୍ଦେଶ

SCENARIO 10

What is the complaint?

A community worker reads an article on environmental and social impacts of sand mining in the morning newspaper. He immediately recalls that when they met at the local tea shop, residents of a nearby village had casually mentioned that there was rampant mining of sand from the riverbed taking place. They had complained that the riverbank was eroding and the flow of the river was impacted because truckloads of material were being transported out every day. They were concerned that the Panchayat might be hand in glove with the sand mining contractors. People were also worried that sand from the river which people had traditionally used for construction of their houses, was just not available for local use. This was done occasionally and in small quantities, after taking permission from the Panchayat.

Is a law being violated?

Sand mining is regulated by site specific laws, environmental regulations, as well as local Panchayat laws. In order to ascertain the nature of violation, it would be good to understand if the mining is being carried out in an area where it is otherwise restricted or regulated. Second, whether any impact assessment studies have been carried out in the operation. It would also be useful to understand if there are any court judgments which have a bearing on a controversial issue like sand mining.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୦

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

କଣେ ଗୋଷ୍ଠୀ ସମାଜକର୍ମୀ ବାଲୁକା ଖଣିର ପରିବେଶ ଓ ସାମାଜିକ ପ୍ରଭାବ ବିଷୟରେ ସମ୍ବାଦ ପତ୍ରରେ ଏକ ଆଲୋଚନା ପଢ଼ିଲେ । ତାଙ୍କର ମନେପଡ଼ିଲା ଯେ ଥରେ ଗୋଟିଏ ଚା ଦୋକାନରେ ଚା ପିଇଲାବେଳେ ନିକଟବର୍ତ୍ତୀ ଗ୍ରାମର ଗ୍ରାମବାସୀ ସେ ଅଞ୍ଚଳରେ ନଦୀ ଶଯ୍ୟାରୁ ପ୍ରଚୁର ବାଲୁକା ଉତ୍ତୋଳନ ହେଉଥିବା ବିଷୟରେ କହିଥିଲେ । ସେମାନେ ଅଭିଯୋଗ କରୁଥିଲେ ଯେ ପ୍ରତିଦିନ ଟ୍ରକ ଟ୍ରକ ବାଲି ଚାଲାଣ ଯୋଗୁଁ ନଦୀକୂଳ ଖାଇଯାଉଛି ଓ ଏହା ନଦୀର ଜଳପ୍ରବାହକୁ ପ୍ରଭାବିତ କରୁଛି । ବାଲି ଚାଲାଣ କରୁଥିବା ଠିକାଦାରଙ୍କ ସହ ପଞ୍ଚାୟତର ମଧୁଚନ୍ଦ୍ରିକା ବିଷୟରେ ସେମାନେ ଚିନ୍ତା ପ୍ରକଟ କରିଥିଲେ । ଚିରାଚରିତ ଭାବେ ବାଲି ଗ୍ରାମବାସୀମାନେ ଗୃହନିର୍ମାଣ ପାଇଁ ବ୍ୟବହାର କରି ଆସୁଥିଲେ ମଧ୍ୟ ଏବେ ଏହା ସେମାନଙ୍କୁ ଉପଲବ୍ଧ ହେଉନଥିବାରୁ ଚିନ୍ତା ପ୍ରକଟ କରିଥିଲେ । ଗୃହ ନିର୍ମାଣ ପାଇଁ ବାଲିର ବ୍ୟବହାର ବହୁତ କମ୍ ମାତ୍ରାରେ ଆବଶ୍ୟକ ହେଉଥିଲା ଏବଂ ଗ୍ରାମବାସୀ ପଞ୍ଚାୟତରୁ ଅନୁମତି ନେବାପରେ ବାଲି ବ୍ୟବହାର କରୁଥିଲେ ।

ଏଠାରେ ଆଇନ ଉଲ୍ଲଙ୍ଘନ ହେଉଛି କି ?

ବାଲୁକା ଉତ୍ତୋଳନ ସ୍ଥାନ- ଅବସ୍ଥିତି ବିଶେଷକ ଆଇନ, ପରିବେଶ ନିୟମ ଏବଂ ପଞ୍ଚାୟତ ଆଇନ ଦ୍ଵାରା ନିୟନ୍ତ୍ରିତ ହୋଇଥାଏ । କିଭଳି ଆଇନର ଉଲ୍ଲଙ୍ଘନ ହେଉଛି ତାହା ନିରୂପଣ କରିବା ପାଇଁ ଆମକୁ ଏହା ଦେଖିବାକୁ ଯେ ବାଲୁକା ଉତ୍ତୋଳନ ବାରଣ ହୋଇଥିବା ବା କଟକଣା ଲାଗୁ ହୋଇଥିବା ଅଞ୍ଚଳରେ ହେଉଛି କି ? ଦ୍ଵିତୀୟରେ ବାଲୁକା ଉତ୍ତୋଳନ ଯୋଗୁଁ ପ୍ରଭାବର ଆକଳନ ହୋଇଛି କି ନାହିଁ । ଆହୁରି ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ଏପରି କିଛି ଅଦାଲତର ନିଷ୍ପତ୍ତି ଅଛି କି ଯାହା ବାଲୁକା ଖଣି ପରି ଏକ ବିବାଦୀୟ କାର୍ଯ୍ୟକଳାପ କିପରି କରାଯିବ ସେ ସମ୍ପର୍କରେ ନିର୍ଦ୍ଦେଶ ପ୍ରଦାନ କରୁଛି



Photo credit: Kanchi Kohli / ଫଟୋ ଚିତ୍ର ଶ୍ରେୟ: କାଂଚି କୋହିଲି

Law	Corresponding Institutions/Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. NOC from the Panchayat or Municipality: Check whether an No Objection Certificate (NOC has been sought from the concerned Panchayat or Municipality)	1. Sarpanch/Head of Panchayat 2. Elected Municipal Corporator/Municipal Commissioner	Each state has its own Panchayat Act
2. CRZ Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zone(s).	1. SCZMA 2. DLCC (under the District Collector)	1. Section 3 (x), Section 4 and Section7 2. MoEFCC Office Memorandum dated 18.11.2011
3. EIA Notification, 2006 Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition of an environment clearance letter. Any mining activity, including that of sand, must obtain an environmental clearance, even if it spans an area of less than five hectares.	1. District Environment Impact Assessment Authority (if Category B2 project) 2. SEIAA (if Category B project) 3. MoEFCC (if Category A project)	1. Schedule of the EIA Notification and specifically 1(a) in the Schedule 2. Appendix IV 3. MoEFCC Office Memorandum dated 2.7.2007
4. Mines and Minerals Regulation and Development Act, 1957: Check whether the activity has obtained the mining lease. If yes, check compliance with the mining lease agreement.	State Mining and Geology Department	States have their own mining Acts and Policies for minor minerals
Site specific laws		
5. FCA, 1980: Check whether the area including the river, where the sand mining is taking place falls under forest area or not	1. Divisional Forest Officer 2. MoEFCC (Regional and New Delhi office)	Section 2
6. ESA, CVCA: Whether any special orders, notifications or guidelines have been issued to protect, conserve this area or restrict activity like, ESA or CVCA	1. MoEFCC 2. ESA Management Committee 3. SCZMA	1. Section 3 (2) (v) of the EPA, 1986 2. Section 4 of the CRZ Notification, 2011
Court Orders		
7. NGT Order in OA No. 171 of 2013	1. MoEFCC 2. State Environment Departments	Order states no sand mining till environmental clearance. Stay on all sand mining operations till approval obtained

ଆଇନ୍	ସମ୍ପର୍କୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ପଞ୍ଚାୟତ କିମ୍ବା ମ୍ୟୁନିସିପାଲିଟିର ନିର୍ଦ୍ଦେଶ (ନୋ ଅବଜେକ୍ସନ୍) : ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଏହା ପଞ୍ଚାୟତ କିମ୍ବା ଜିଲ୍ଲା ମ୍ୟୁନିସିପାଲିଟି ଠାରୁ ନିର୍ଦ୍ଦେଶ ପତ୍ର (ନୋ ଅବଜେକ୍ସନ୍ ସାର୍ଟିଫିକେଟ୍) ପାଇଛି ନା ନାହିଁ ।	୧. ସରପଞ୍ଚ/ପଞ୍ଚାୟତ ମୁଖ୍ୟ ୨. ନିର୍ଦ୍ଦିଷ୍ଟ ମ୍ୟୁନିସିପାଲ କର୍ପୋରେଟର / ମ୍ୟୁନିସିପାଲ କମିଶନର	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ୍ ଅଛି
୨. କୋଷ୍ଟାଲ୍ ରେଗୁଲେସନ୍ କୋନ୍ (ସିଆର୍କେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଏହା ପଞ୍ଚାୟତ କିମ୍ବା ମ୍ୟୁନିସିପାଲିଟି ଠାରୁ ନିର୍ଦ୍ଦେଶ ପତ୍ର (ନୋ ଅବଜେକ୍ସନ୍ ସାର୍ଟିଫିକେଟ୍) ପାଇଛି ନା ନାହିଁ	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥିତ ଷ୍ଟେଟ୍ କୋଷ୍ଟାଲ କୋନ୍ ମ୍ୟାନେଜ୍ମେଣ୍ଟ ଅଥରିଟିଜ୍ (ସି କେଡ୍ ଏସ୍ ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କ ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ତରୀୟ କୋଷ୍ଟାଲ କମିଟି	୧. ଅନୁକ୍ଷେପ-୩ (ଏକ୍ସ) ୧୮-୧୦-୨୦୧୧ରେ ପରିବେଶ ଜଙ୍ଗଲ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହତ୍ତ୍ୱାଳୟ କାର୍ଯ୍ୟାଳୟ ଦ୍ୱାରା ପ୍ରକାଶିତ ଜାପକ ପତ୍ର
୩. ଏନ୍‌ଭାଇରନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସମେଣ୍ଟ ନୋଟିଫିକେସନ୍ ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ । ଯଦି ହଁ, ଦେଖିବାକୁ ହେବ ଯେ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଦିଆଯାଇଥିବା ସର୍ତ୍ତକୁ ଖିଲାପ କରୁଛି କି ନାହିଁ । ଖଣି କାର୍ଯ୍ୟ ଏପରିକି ବାଲୁକା ଖଣି ୫ ହେକ୍ଟର ପରିମାପ ଅଞ୍ଚଳରେ କରାଗଲେ ପରିବେଶ ମଞ୍ଜୁରୀ ଆବଶ୍ୟକ	୧. "ଖ" ଶ୍ରେଣୀ ବି କାଟେଗୋରୀ ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ଜିଲ୍ଲା ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ । ୨. "ଖ" ଶ୍ରେଣୀ (ବି କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ରାଜ୍ୟ ପରିବେଶ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ ୩. "କ" ଶ୍ରେଣୀ ("ଏ" କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହତ୍ତ୍ୱାଳୟ	୧. ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍ ର ସୂଚୀ ଏବଂ ବିଶେଷ କରି ୧(କ) ୨. ପରିଶିଷ୍ଟ-୪ ୩. ୦୨.୦୭.୨୦୦୬ରେ ପରିବେଶ ଜଙ୍ଗଲ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହତ୍ତ୍ୱାଳୟ କାର୍ଯ୍ୟାଳୟ ଦ୍ୱାରା ଜାରି କରାଯାଇଥିବା ଜାପକ ପତ୍ର
୪. ମାଇନିଂ ଏଣ୍ଡ ମିନେରାଲ୍ସ୍ ରେଗୁଲେସନ୍ ଏଣ୍ଡ ଡେଭେଲପ୍ ମେଣ୍ଟ ଆକ୍ଟ, ୧୯୫୭ (ଖଣି ଓ ଖଣିକ ପଦାର୍ଥ ନିୟନ୍ତ୍ରଣ ଓ ଉନ୍ନୟନ ଆଇନ୍, ୧୯୫୭): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପଟି ଖଣି ଲିଜ୍ ପାଇଛି କି ନାହିଁ	ରାଜ୍ୟ ଖଣି ଓ ଭୂତତ୍ତ୍ୱ ବିଭାଗ	ଲଘୁ ଖଣିକ ପଦାର୍ଥ ସମ୍ପର୍କୀୟ ଖଣିକାର୍ଯ୍ୟ ପାଇଁ ରାଜ୍ୟ ନିଜର ଖଣିଆଇନ୍ ଓ ସରକାରୀ ନୀତି ପ୍ରଣୟନ କରିଛନ୍ତି ଏବଂ ଖଣିଲିଜ୍ ରୁକ୍ଷିତାମାର ନକଲ ରଖିବାକୁ ହେବ
ସ୍ଥାନ ବିଶେଷକ ଆଇନ୍		
୫. କୋଷ୍ଟାଲ୍ ରେଗୁଲେସନ୍ କୋନ୍ (ସିଆର୍କେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଏହା ସିଆର୍କେଡ୍ ଘୋଷିତ ଅଞ୍ଚଳରେ ଅନୁମତି ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥିତ ଷ୍ଟେଟ୍ କୋଷ୍ଟାଲ କୋନ୍ ମ୍ୟାନେଜ୍ମେଣ୍ଟ ଅଥରିଟିଜ୍ (ସିକେଡ୍-ଏମ୍-ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କ ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ତରୀୟ କୋଷ୍ଟାଲ କମିଟି (ଡି-ଏଲ୍-ସି)	ଅନୁକ୍ଷେପ-୩, ଅନୁକ୍ଷେପ-୪ ଏବଂ ଅନୁକ୍ଷେପ-୭
୬. ଫ୍ଲୋରଷ୍ଟ କନଜର୍ଭେସନ୍ ଆକ୍ଟ ୧୯୮୦ (ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍ ୧୯୮୦): ନଦୀ ଜଙ୍ଗଲ କମି ଘୋଷିତ ଅଞ୍ଚଳ ମଧ୍ୟ ଦେଇ ପ୍ରବାହିତ ହେଉଛି ନା ନାହିଁ	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ ୨. ପରିବେଶ ଓ ଜଙ୍ଗଲ ମହତ୍ତ୍ୱାଳୟ (ଆଞ୍ଚଳିକ ଓ ନୂଆଦିଲ୍ଲୀ କାର୍ଯ୍ୟାଳୟ)	୧. ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍, ୨. ୧୯୮୦ର ଅନୁକ୍ଷେପ-୨
ଅଦାଲତ ନିଷ୍ପତ୍ତି		
୭. ଜାତୀୟ ସବୁଜ ଟ୍ରିବୁନାଲର ଆଦେଶ (ଓ ଏ ନଂ. ୧୭୧ ୨୦୧୩ ମସିହା)	୧. ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହତ୍ତ୍ୱାଳୟ ୨. ରାଜ୍ୟ ପରିବେଶ ବିଭାଗ	ରାଜ୍ୟ ମାନଙ୍କୁ ବାଲୁକା ଖଣି ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ବାଧ୍ୟତାମୂଳକ କରିବା ପାଇଁ ଆଦେଶ କାର୍ଯ୍ୟରତ ବାଲୁକା ଖଣି ମଞ୍ଜୁରୀ ପ୍ରାପ୍ତି ପର୍ଯ୍ୟନ୍ତ ବନ୍ଦ ରଖିବାକୁ ଆଦେଶ

SCENARIO 11

What is the complaint?

A group of artisanal fisherfolk has contacted a paralegal with an issue that mechanised bull trawlers are being used in an area which is otherwise used by artisanal and small boats. 'Bull trawling' is a method of fishing in which two marginally big sized boats tie a fishing net between them and pull it through the water. The practice of bull trawling is restricting the space for the small boats, as well as reducing the fish catch in the area where these boats can fish. Since the last few years, the number of bull trawlers are only on the rise. Small and marginal fisherfolk want a restriction on the practice of bull trawling, especially in areas where it is coming into conflict with the small boats.

Is a law being violated?

The main legislation which comes into play here, is the Fisheries Act, which differs in each state. There are also orders from the Department of Fisheries in each state demarcating the zones (through nautical miles into the sea), where different kinds of fishing practices will operate or be restricted. The clauses CRZ Notification could also be looked into as it regulates the use of water areas as well.

Law	Corresponding Institutions/ Officials	Section/Clause
1. State Marine Fisheries Act: Check if it regulates movement of bull trawlers and mechanised boating in certain areas	State Department of Fisheries	<i>For example:</i> Karnataka Marine Fishing (Regulation) Act, 1986: Sections 3, 4, 5, 7, 11 and 13 Karnataka State Government Order of 1994
2. Department of Fisheries Circulars/Directions	State Department of Fisheries	Look for circulars or directions within each state marine fisheries regulations to see if there are restrictions on particular fishing practices or horse power of particular boats used for bull trawling
3. Check whether it is an Exclusive Economic Zone		Central Government letter dated 12.11.2014

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୧

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଛୋଟ ଡଙ୍ଗା ବ୍ୟବହାର କରି ମାଛଧରୁଥିବା କିଛି ମତ୍ସ୍ୟଜୀବୀ ଆଇନ ସହାୟକଙ୍କୁ ଯତ୍ନବାନିତ ବଡ଼ ମାଛଧରା ନୌକା ସାହାଯ୍ୟରେ ସେ ଅଞ୍ଚଳରେ ମାଛଧରା ହେଉଥିବା ସମ୍ପର୍କରେ ଅବଗତ କରିଛନ୍ତି । ବୁଲ୍‌ଟ୍ରଲିଙ୍ଗ (ବଡ଼ ନୌକା ଦ୍ଵାରା ମାଛଧରା) ଏପରି ଏକ ପଦ୍ଧତି ଯେଉଁଥିରେ ଦୁଇଟି ଅପେକ୍ଷାକୃତ ବଡ଼ ଡଙ୍ଗାରେ ଜାଲର ଦୁଇ ପାଖକୁ ବାନ୍ଧି ଏହାକୁ ସମୁଦ୍ର ବନ୍ଧରେ ଆଗକୁ ଭିଡ଼ାଯାଇଥାଏ । ବୁଲ୍‌ଟ୍ରଲିଙ୍ଗ ଯୋଗୁଁ ଛୋଟ ଡଙ୍ଗା ବ୍ୟବହାର ପାଇଁ ସ୍ଥାନ ସଙ୍କୁଚିତ ହେବା ସଙ୍ଗେ ସଙ୍ଗେ ଛୋଟ ଡଙ୍ଗା ସାହାଯ୍ୟରେ ମାଛଧରା ହେଉଥିବା ଅଞ୍ଚଳରେ ମାଛର ପରିମାଣ ମଧ୍ୟ ହ୍ରାସ ପାଇବାରେ ଲାଗିଛି । ବିଗତ କିଛିବର୍ଷ ମଧ୍ୟରେ ବୁଲ୍‌ଟ୍ରଲିଙ୍ଗର ସଂଖ୍ୟା ବଢ଼ିବାରେ ଲାଗିଛି । କ୍ଷୁଦ୍ର ସୀମାନ୍ତ ମତ୍ସ୍ୟଜୀବି ଚାହୁଁଛନ୍ତି ଯେ ବୁଲ୍‌ଟ୍ରଲିଙ୍ଗକୁ କଟକଣା କରାଯାଉ ଏବଂ ବିଶେଷକରି ଛୋଟ ଡଙ୍ଗା ସାହାଯ୍ୟରେ ମାଛଧରା ହେଉଥିବା ଅଞ୍ଚଳରେ ଏହାର ବ୍ୟବହାରକୁ ନଷ୍ଟ କରାଯାଉ ।

ଆଇନ୍ ଉଲ୍‌ଫାନ୍ ହେଉଛି କି ?

ଏହି ପ୍ରସଙ୍ଗରେ ଯେଉଁ ଆଇନ୍ ପ୍ରଯୁଜ୍ୟ ତାହାହିଁ ମତ୍ସ୍ୟସମ୍ପଦ (ଫିସେରୀ) ଆଇନ୍ ଯାହାକି ରାଜ୍ୟ ରାଜ୍ୟ ମଧ୍ୟରେ ଭିନ୍ନ ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ମତ୍ସ୍ୟ ସମ୍ପଦ ବିଭାଗ ଆଦେଶ ଜାରି କରି ଭିନ୍ନ ଭିନ୍ନ ମଣ୍ଡଳ (କୋନ୍) ସୀମା ନିର୍ଦ୍ଧାରଣ କରିଛନ୍ତି (ସମୁଦ୍ର କୂଳଠାରୁ ସମୁଦ୍ର ମଧ୍ୟକୁ ସାମୁଦ୍ରିକ ଦୂରତ୍ଵର ମାପକୁ ଆଧାର କରି) ଏବଂ କେଉଁ ମଣ୍ଡଳ ମଧ୍ୟରେ କେଉଁ ପଦ୍ଧତିରେ ମାଛଧରା ହେବ ଏବଂ କେଉଁ ପଦ୍ଧତିକୁ ବାରଣ କରାଯିବ ସେ ସମ୍ପର୍କରେ ନୀତି ନିର୍ଦ୍ଧାରଣ କରିଛନ୍ତି । ସିଆରଜେଡ୍ ବିଜ୍ଞପ୍ତିର ଧାରାଗୁଡ଼ିକୁ ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେହେତୁ ଏହା ମଧ୍ୟ ସମୁଦ୍ର ଭିନ୍ନ ଭିନ୍ନ ଅଞ୍ଚଳକୁ କିପରି ବ୍ୟବହାର କରାଯିବ ତାହାକୁ ନିର୍ଦ୍ଧାରଣ କରେ ।

ଆଇନ୍	ସମ୍ପର୍କୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
୧. ରାଜ୍ୟ ସାମୁଦ୍ରିକ ମତ୍ସ୍ୟ ସମ୍ପଦ ଆଇନ୍ (ଝେଟ୍ ମାରିନ ଫିସେରିଜ୍ ଆକ୍ଟ): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଏହା ନିର୍ଦ୍ଦିଷ୍ଟ ଅଞ୍ଚଳରେ ବୁଲ୍‌ଟ୍ରଲିଙ୍ଗ ଏବଂ ଯତ୍ନବାନିତ ଡଙ୍ଗାର ଚଳପ୍ରଚଳକୁ ନିୟନ୍ତ୍ରଣ କରୁଛି କି ନାହିଁ	ରାଜ୍ୟ ମତ୍ସ୍ୟସମ୍ପଦ ବିଭାଗ	ଉଦାହରଣ ସ୍ଵରୂପ, କର୍ଣ୍ଣାଟକ ସାମୁଦ୍ରିକ ମତ୍ସ୍ୟସମ୍ପଦ ଆଇନ୍ ୧୯୮୭ର ଅନୁକ୍ଳେଦ-୩, ୪, ୫, ୬ ୧୧ ଓ ୧୩ କର୍ଣ୍ଣାଟକ ରାଜ୍ୟ ସରକାରଙ୍କର ଆଦେଶ ନାମା ୧୯୯୪ ମସିହା
୨. ମତ୍ସ୍ୟ ସମ୍ପଦ ବିଭାଗ ଆଦେଶପତ୍ର / ନିର୍ଦ୍ଦେଶାବଳୀ	ରାଜ୍ୟ ମତ୍ସ୍ୟସମ୍ପଦ ବିଭାଗ	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ସାମୁଦ୍ରିକ ମାଛଧରାକୁ ନିୟନ୍ତ୍ରଣ କରିବା ସକାସ୍ୟେ ଜାରି କରାଯାଇଥିବା ଆଦେଶପତ୍ର କିମ୍ବା ନିର୍ଦ୍ଦେଶାବଳୀକୁ ଯାଞ୍ଚ କରି ଦେଖିବାକୁ ହେବ ଯେ ଏହା ନିର୍ଦ୍ଦିଷ୍ଟ ମାଛଧରା ପଦ୍ଧତି ବା ବୁଲ୍‌ଟ୍ରଲିଙ୍ଗ ପାଇଁ ବ୍ୟବହୃତ ଡଙ୍ଗାର ଅଶ୍ଵକ୍ଷମତା ସମ୍ପର୍କରେ କିଛି କଟକଣା ଧାର୍ଯ୍ୟ କରିଛି କି ନାହିଁ
୩. ଯାଞ୍ଚ କରି ଦେଖ ଯେ ଏହା ସ୍ଵତନ୍ତ୍ର ଅର୍ଥନୈତିକ ଅଞ୍ଚଳ କି ନାହିଁ		୧୨-୧୧-୨୦୧୪ରେ କେନ୍ଦ୍ର ସରକାର ଜାରି କରିଥିବା ପତ୍ର

CONDITION IN A CENTRAL GOVERNMENT LETTER

In the letter dated 12.11.2014 from the Central Government it is said that as per the “New guidelines for conduct of fishing operation in India, Exclusive Economic Zone” bull trawling is not permitted in EEZ. Therefore, as per the provisions under Section 3 (1) (d) of the Karnataka Marine Fishing (Regulation) Act, 1986, it been requested to issue order to prohibit bull trawling fishing up to 12 nautical miles in territorial waters of Karnataka state.

କେନ୍ଦ୍ର ସରକାରଙ୍କର ପତ୍ରରେ ଉଲ୍ଲେଖ ଥିବା ସର୍ତ୍ତ

କେନ୍ଦ୍ର ସରକାରଙ୍କ ତା. ୧୨.୧୧.୨୦୧୪ ତିଥିରେ ଦର୍ଶାଯାଇଅଛି ଯେ, ନିମ୍ନ ଗାଇଡ୍‌ଲାଇନ୍ସ ଫର୍ କଣ୍ଠକର୍ ଅଫ୍ ଫିସିଙ୍ଗ୍ ଅପରେସନ୍ ଇନ୍ ଇଣ୍ଡିଆ, ଏକ୍ସକ୍ଲୁସିଭ୍ େକୋନୋମିକ୍ ଜୋନ୍ ଅନୁଯାୟୀ ସ୍ୱତନ୍ତ୍ର ଅର୍ଥନୀତିକ ଜୋନରେ ବୁଲ୍ ଟ୍ରାଲିଙ୍ଗ୍ ନିଷିଦ୍ଧ କରାଯାଇଛି। ତେଣୁ କର୍ଣ୍ଣାଟକ ମାରିନ୍ ଫିସିଂ ରେଗୁଲେସନ୍ ୧୯୯୬ ର ଅନ୍ତର୍ଭୁକ୍ତ ଅନୁଚ୍ଛେଦ -୩ ର ଉପ-ଅନୁଚ୍ଛେଦ (୧) (ଦ) ଅନୁଯାୟୀ କର୍ଣ୍ଣାଟକ ରାଜ୍ୟର ସମୁଦ୍ର ତଟ ଭୂସୀମା ଠାରୁ ୧୨ ନଟିକାଲ ମାଇଲ (ସମୁଦ୍ରରେ ବ୍ୟବହୃତ ଦୂରତ୍ୱର ମାପ, ୧ ନଟିକାଲ ମାଇଲ - ୧.୮୫କି.ମି.) ସମୁଦ୍ର ମଧ୍ୟସ୍ଥ ଅଞ୍ଚଳ ମଧ୍ୟରେ ବୁଲି ଟ୍ରାଲିଙ୍ଗ୍ ଦ୍ୱାରା ମାଛମରାକୁ ନିଷିଦ୍ଧ କରିବା ପାଇଁ ଆବେଶ କାରି କରିବା ପାଇଁ ଅନୁରୋଧ କରାଯାଇଛି।

SCENARIO 12

What is the complaint?

A group of tribal people has been approached by a nearby manufacturing plant to purchase agricultural land. They need the land for expanding their operations and constructing a captive power plant within the premises. On one hand they do not want to sell their land, on the other, they do not want the premises to expand its operations, as it will be much closer to the human settlement, than it is currently. They have approached a community worker or paralegal to understand what the legalities are and what are their options for remedy.

Is a law being violated?

There are constitutional protections for the sale of land owned by a tribal person to a non-tribal. In this case, if the project authority is non-tribal it cannot directly purchase this land. It would need to be seen if the project authority is wanting to do this in partnership with other tribals from the area, or is using them as mediums for purchase.



ପରିକଳ୍ପନା ଘଟଣାବଳୀ ୧୨

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଏକ ଦ୍ରବ୍ୟ ନିର୍ମାଣକାରୀ ଶିଳ୍ପ ଆଦିବାସୀ ମାନଙ୍କଠାରୁ ଚାଷଜମି କିଣିବା ପାଇଁ ସେମାନଙ୍କୁ ଯୋଗାଯୋଗ କରିଛି । ଶିଳ୍ପ ସଂସ୍ଥା ଏହାର ଉତ୍ପାଦନ ବଢାଇବା ଓ ନିଜର ବିଦ୍ୟୁତ୍ ଉତ୍ପାଦନ କେନ୍ଦ୍ର କାରଖାନା ପରିସର ମଧ୍ୟରେ ପ୍ରତିଷ୍ଠା କରିବା ପାଇଁ ଜମି କିଣିବାକୁ ଇଚ୍ଛା ପ୍ରକାଶ କରୁଛି । ଆଦିବାସୀ ମାନେ ସେମାନଙ୍କର ଜମି ବିକିବାକୁ ଚାହୁଁନାହାଁନ୍ତି, ଏପରିକି ସେମାନେ କାରଖାନା ତାହାର କ୍ଷେତ୍ର ବିସ୍ତାର କରୁବୋଲି ଚାହୁଁ ନାହାଁନ୍ତି, କାରଣ ଏହା ଫଳରେ କାରଖାନାର ସୀମା ବର୍ତ୍ତମାନ ଅପେକ୍ଷା ଜନ ବସତିର ଅଧିକ ନିକଟତର ହୋଇଯିବ । ସେମାନେ ଗୋଷ୍ଠୀ ସମାଜକର୍ମୀ କିମ୍ବା ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକଙ୍କୁ ଏ ସଂପର୍କରେ ଥିବା ଆଇନ ଗତ ବ୍ୟବସ୍ଥା ଏବଂ ଏହାର ପ୍ରତିକାର ପାଇଁ କଣ କରାଯାଇପାରିବ ସେ ବାବଦରେ ବୁଝିବାକୁ ଆସିଛନ୍ତି ।

ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହୋଇଛି କି ?

ଜଣେ ଆଦିବାସୀଙ୍କର ମାଲିକାନାରେ ଥିବା ଜମିକୁ ଜଣେ ଅଣଆଦିବାସୀ ବ୍ୟକ୍ତି କିଣିବା ସଂକ୍ରାନ୍ତରେ ସାମ୍ବିଧାନିକ ସୁରକ୍ଷା ଉପଲବ୍ଧ । ଏ କ୍ଷେତ୍ରରେ ପ୍ରକଳ୍ପ କର୍ତ୍ତୃପକ୍ଷ ଅଣ ଆଦିବାସୀ ହୋଇଥାଇପାରନ୍ତି ତେଣୁ ସେ ସିଧାସଳଖ ଆଦିବାସୀଙ୍କ ଠାରୁ ଜମି କିଣିପାରିବେ ନାହିଁ । ଏଠାରେ ଦେଖିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପ କର୍ତ୍ତୃପକ୍ଷ ସେ ଅଞ୍ଚଳର ଅନ୍ୟ ଆଦିବାସୀଙ୍କୁ ପ୍ରକଳ୍ପରେ ଭାଗିଦାର କରି ଜମି କିଣୁଛନ୍ତି ନା ସେମାନଙ୍କୁ କେବଳ ଜମି କିଣିବା ଏକ ମାଧ୍ୟମ ରୂପେ ବ୍ୟବହାର କରୁଛନ୍ତି ।

Law	Corresponding Institutions/Officials	Section/Clause
Special Protection Laws		
1. Provisions of the Panchayats (Extension to the Scheduled Areas) (PESA) Act, 1996: Check if the permission of the Gram Sabha has been obtained in the Scheduled Area(s) for setting up of the unit and its expansion. Also check whether a non-tribal wants to purchase land owned by a tribal.	1. Gram Sabha 2. Sarpanch 3. District Collector	Section 4 (i), Section 4 (m) (i), Section 4 (d)
Permissions, Rights and Consents related laws		
2. EIA Notification, 2006: Check whether the project authority has initiated a process for expansion. Also check if the conditions for the existing unit have been complied with.	1. SEIAA (if category B project) 2. MoEFCC (if category A project)	Section 2 Schedule of the EIA Notification depending on the nature of the manufacturing unit Appendix IV on Public Hearing
4. FCA, 1980: Check whether the construction is being carried out on forest land and if permission for forest diversion is required	1. Divisional Forest Officer 2. MoEFCC (Regional and New Delhi office)	Section 2
5. FRA, 2006: Check whether there are any pending individual or community forest rights claims pending and if the consent of a Gram Sabha has been sought prior to forest diversion	1. Forest Rights Committee 2. Gram Panchayat 3. District Collector	3.8.2009 circular issued by the MoEFCC

What is PESA?

PESA or the Provisions of the Panchayats (Extension in the Scheduled Areas) Act is a legislation that governs the Scheduled Areas of the Constitution. Scheduled Areas are defined in the Fifth Schedule of the Constitution and consists of predominantly tribal areas. The Governor is the administrative head of these areas and reports directly to the President.

The Gram Sabhas or the Panchayats are required to be consulted before the acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas.

ଆଇନ୍	ସମ୍ବନ୍ଧୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ବିଶେଷ ସୁରକ୍ଷା ଆଇନ୍		
୧. ପଞ୍ଚାୟତ (ତତ୍ପରିଲଭୁକ୍ତ ଅଞ୍ଚଳକୁ ସଂପ୍ରସାରଣ) ଆଇନ୍ ୧୯୯୬: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଶିଳ୍ପ ସଂସ୍ଥା ପ୍ରତିଷ୍ଠା ଏବଂ ଏହାର ସଂପ୍ରସାରଣ ପାଇଁ ଗ୍ରାମସଭାରୁ ଅନୁମତି ପାଇଛି ନା ନାହିଁ ।	୧. ଗ୍ରାମସଭା ୨. ସରପଞ୍ଚ	ଅନୁଚ୍ଛେଦ-୪ (୧) ଅନୁଚ୍ଛେଦ-୪ (ଏମ୍) (୧), ଅନୁଚ୍ଛେଦ-୪ (ଘ)
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ପତ୍ତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୨. ଏନଭାଇଇନମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସମେଣ୍ଟ ନୋଟିଫିକେସନ୍ ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି, ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପ କର୍ତ୍ତୃପକ୍ଷ ସଂପ୍ରସାରଣ କାର୍ଯ୍ୟ ଆରମ୍ଭ କରିଛନ୍ତି ନା ନାହିଁ । ଆହୁରି ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ଶିଳ୍ପ ସଂସ୍ଥା ବର୍ତ୍ତମାନ ସ୍ଥିତିରେ ସମସ୍ତ ସର୍ତ୍ତର ପାଳନ କରୁଛି ନା ନାହିଁ ।	୧. “ଖ” ଶ୍ରେଣୀ (“ବି” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ଷ୍ଟେଟ୍ ଇମ୍ପାକ୍ଟ ଆସେସମେଣ୍ଟ ଅଥରିଟି (ରାଜ୍ୟ ପ୍ରଭାବ ଆକଳନ କର୍ତ୍ତୃପକ୍ଷ) ୨. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ଅନୁଚ୍ଛେଦ- ୨ ଶିଳ୍ପର ପ୍ରକାର ଉପରେ ଅନୁଯାୟୀ ଇ.ଆଇ.ଏ ବିଜ୍ଞପ୍ତିର ସୂଚୀ ଜନ ଶୁଣାଣୀର ପରିଶିଷ୍ଟ-୪
୩. ଫରେଷ୍ଟ କନଜରଭେସନ୍ ଆକ୍ଟ ୧୯୮୦ (ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍ ୧୯୮୦): ନିର୍ମାଣ କାର୍ଯ୍ୟ ଜଙ୍ଗଲ ଜମିରେ ହେଉଛି କି ଏବଂ ଏହାପାଇଁ ଜଙ୍ଗଲ ଜମି ଅଣଜଙ୍ଗଲ କାର୍ଯ୍ୟପାଇଁ ବ୍ୟବହାର ନିମନ୍ତେ ଆବଶ୍ୟକ ଅନୁମତି ଦରକାର କି ?	୧. ବନଖଣ୍ଡ ଅଧିକାରୀ ୨. ପରିବେଶ ଓ ଜଙ୍ଗଲ ମନ୍ତ୍ରାଳୟ (ଆଞ୍ଚଳିକ ଓ ନୂଆ ବିଲ୍ଡି କାର୍ଯ୍ୟାଳୟ)	ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍, ୧୯୮୦ର ଅନୁଚ୍ଛେଦ - ୨
୪. ଜଙ୍ଗଲ ଅଧିକାର ଆଇନ୍ ୨୦୦୬: ବ୍ୟକ୍ତିଗତ ଓ ଗୋଷ୍ଠୀ ଜଙ୍ଗଲ ଅଧିକାର ଦାବୀ ଅସମାପିତ ଅବସ୍ଥାରେ ଅଛି କି ଏବଂ ଜଙ୍ଗଲ ଜମିକୁ ଅଣଜଙ୍ଗଲ କାର୍ଯ୍ୟରେ ବ୍ୟବହାର ପାଇଁ ଗ୍ରାମସଭାରୁ ପ୍ରକଳ୍ପ ପୂର୍ବରୁ ଅନୁମତି ଅଣାଯାଇଛି କି ?	୧. ଜଙ୍ଗଲ ଅଧିକାର କମିଟି ୨. ଗ୍ରାମ ପଞ୍ଚାୟତ ୩. ଜିଲ୍ଲା କଲେକ୍ଟର	ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ ଦ୍ୱାରା ୦୩.୦୮.୨୦୦୯ରେ ଜାରି କରାଯାଇଥିବା ନିର୍ଦ୍ଦେଶାବଳୀ

ତତ୍ପରିଲଭୁକ୍ତ ଅଞ୍ଚଳକୁ ପଞ୍ଚାୟତ ସଂପ୍ରସାରଣ ଆଇନ୍ କଣ ?

ପେସା କିମ୍ବା ପଞ୍ଚାୟତ (ତତ୍ପରିଲଭୁକ୍ତ ଅଞ୍ଚଳକୁ ପଞ୍ଚାୟତ ସଂପ୍ରସାରଣ) ଆଇନ୍ ଏକ ଆଇନ୍ ଯାହା ସମ୍ପ୍ରଦାୟ ତତ୍ପରିଲଭୁକ୍ତ ଅଞ୍ଚଳ ବୋଲି ଅଭିହିତ କରିଥିବା ଅଞ୍ଚଳର ଶାସନ ନୀତିକୁ ପରିଚାଳନା କରେ, ସମ୍ପ୍ରଦାୟର ପଞ୍ଚମ ତାଲିକାରେ ତତ୍ପରିଲଭୁକ୍ତ ଅଞ୍ଚଳର ସଂଜ୍ଞା ନିରୂପଣ କରାଯାଇଅଛି ଯେଉଁ ଗୁଡ଼ିକ ହିଁ ମୁଖ୍ୟତଃ ଆଦିବାସୀ ଅଧିଧିକାର ଅଞ୍ଚଳ । ରାଜ୍ୟପାଳ ଏହି ସବୁ ଅଞ୍ଚଳର ପ୍ରଶାସନିକ ମୁଖ୍ୟ ଓ ରାଷ୍ଟ୍ରପତିଙ୍କୁ ସେ ସିଧାସଳଖ ଉତ୍ତରଦାୟୀ ।

ଉନ୍ନୟନ ପ୍ରକଳ୍ପ ପାଇଁ ତତ୍ପରିଲଭୁକ୍ତ ଅଞ୍ଚଳରେ ଜମି ଅଧିଗ୍ରହଣ ପୂର୍ବରୁ ଏବଂ ପ୍ରକଳ୍ପ ଦ୍ୱାରା ପ୍ରଭାବିତ ଜନସାଧାରଣଙ୍କର ଥଇଥାନ ଓ ପୁନର୍ବସତି ପୂର୍ବରୁ ଗ୍ରାମସଭା ବା ପଞ୍ଚାୟତ ସହ ପରାମର୍ଶ କରିବା ବାଧ୍ୟତାମୂଳକ ଅଟେ ।

SCENARIO 13

What is the complaint?

A community worker on her way to office stops at a village well and joins the conversation of a group of women who had come there to collect water. The conversation veers to the declining level of water in the well. This was despite a good monsoon that they witnessed this year. One of the women, laments about the fact that a nearby chemical plant has dug several borewells in its premises, which she believes might be impacting the level of water in the well. Upon being asked whether she is sure of this, she affirms but is not able to prove it. The community worker probes further, but they were unable to give any specifics except reference to information from one of their family members who worked in the plant as an electrician.

Is a law being violated?

Industrial operations such as the above often require specific permissions to draw both surface as well as ground water. In the present case, since ground water is being drawn, it will attract the legal provisions related to ground water extraction. Permissions to draw ground water are granted by the CGWA's regional offices¹. It would have to be seen how the project area is categorised in the Ground Water Resource Estimation done in 2011 (or the latest estimation done by the CGWB). This estimation categorises areas as safe, semi-critical, critical and over-exploited. Consent to operate issued by the SPCB and environmental clearance letters issued by the MoEFCC to chemical plants usually have conditions related to the drawing of ground water, which could be referred to. It can also be checked if there is a state law regarding ground water that is applicable.

Law	Corresponding Institutions/Officials	Section/Clause
Permissions, Rights and consents related laws		
1. NOC from the Panchayat or Municipality: Check whether an NOC has been sought from the concerned Panchayat or Municipality	1. Sarpanch 2. Elected Municipal Corporator/Municipal Commissioner	Each state has its own Panchayat Act
2. Guidelines/Criteria for evaluation of proposals/requests for ground water abstraction (Check if the industry is categorised as water intensive. Check if the industry is allowed in that category of the site. If yes, check if it has an appropriate NOC to draw water. Also check if there is a specific violation of any condition of the NOC.)	1. District Collector/ Municipality head. 2. Regional office of the CGWB	Sections 3, 7 and 8 Issuance of NOC issued for drawl of water Section 6 (b) (in case the industry has not complied with the conditions mentioned in the NOC)

¹The CGWB has its regional offices in Jammu, Dharamsala, Chandigarh, Dehradun, Lucknow, Jaipur, Patna, Kolkata, Guwahati, Ahmedabad, Nagpur, Bhopal, Raipur, Bhubaneswar, Hyderabad, Bengaluru, Chennai and Thiruvananthapuram

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୩

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଜଣେ ସମାଜକର୍ମୀ କାର୍ଯ୍ୟାଳୟକୁ ଯିବା ବାଟରେ ଗାଁର କୂଅପାଖରେ ପାଣି ସଂଗ୍ରହ କରିବାକୁ ଆସିଥିବା ମହିଳାମାନଙ୍କର ସହ ଆଲୋଚନାରେ ଯୋଗ ଦିଅନ୍ତି । ଆଲୋଚନା କୂଅର ଜଳସ୍ତର ହ୍ରାସ ପାଇଥିବା ସମ୍ବନ୍ଧରେ ହୁଏ । ଚଳିତ ବର୍ଷ ଭଲବର୍ଷୀ ସତ୍ତ୍ୱେ ସେମାନେ ଏହା ଅନୁଭବ କରିଛନ୍ତି । ଆଲୋଚନାରେ ଭାଗ ନେଉଥିବା ମହିଳା ମାନଙ୍କର ମଧ୍ୟରୁ ଜଣେ ଖଦ୍ୟୋକ୍ତି ପ୍ରକାଶ କରି କହିଲେ ଯେ ନିକଟରେ ଅବସ୍ଥିତ ଏକ ରାସାୟନିକ କାରଖାନା ଏହାର ପରିସର ମଧ୍ୟରେ ଅନେକ ଗଭୀର ନିଳକୂପ ଖନନ କରିଥିବା ଯୋଗୁଁ ଏହାର ପ୍ରଭାବରେ ଗାଁ କୂଅର ଜଳସ୍ତର କମିବାରେ ଲାଗିଛି, ଏ ବାବଦରେ ତାଙ୍କୁ ପଚରାଯିବାରୁ ସେ କହିଲେ ଯେ ସେ ଏ ବିଷୟରେ ନିଶ୍ଚିତ ହୋଇଥିଲେ ମଧ୍ୟ ସେ ଏହାକୁ ପ୍ରମାଣ କରିପାରିବେ ନାହିଁ । ଏହି ସମସ୍ୟା ବିଷୟରେ ଗୋଷ୍ଠୀ ସମାଜକର୍ମୀ ମହିଳାମାନଙ୍କୁ ଅଧିକ ପ୍ରଶ୍ନ କରିବାରୁ ସେମାନେ କହିଲେ ଯେ ଯଦି ସେମାନେ କାରଖାନାର ଜଳ ଉତ୍ତୋଳନ ବାବଦରେ ନିର୍ଦ୍ଦିଷ୍ଟ ରୂପେ କିଛି ତଥ୍ୟ ଦେଇପାରିବେ ନାହିଁ ତଥାପି ସେମାନେ ଏ ବାବଦରେ ତାଙ୍କ ମଧ୍ୟରୁ ଜଣଙ୍କର ସମ୍ପର୍କୀୟ ଯିଏ ଲଲେକ୍ତ୍ରିସିଆନ୍ ରୂପେ କାମ କରନ୍ତି ତାଙ୍କଠାରୁ ଏ ସୂଚନା ପାଇଛନ୍ତି ।

ଆଇନ୍ ଉଲ୍‌ଫାନ୍ ହେଉଛି କି ?

ଏଠାରେ ଦିଆଯାଇଥିବା ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନର ଉଦ୍‌ଦେଶ୍ୟ ପରି ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନମାନେ ଭୂପୃଷ୍ଠ ଓ ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ ପାଇଁ ଅନୁମତି ନେବା ଆବଶ୍ୟକ । ଏ କ୍ଷେତ୍ରରେ ଯେହେତୁ ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନଟି ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ କରୁଛି ତେଣୁ ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ ସଂକ୍ରାନ୍ତୀୟ ଆଇନଗତ ବ୍ୟବସ୍ଥା ଏହା ପାଇଁ ଲାଗୁ ହେବ । ଭୂତଳଜଳ ଉତ୍ତୋଳନ କରିବା ପାଇଁ ଅନୁମତି କେନ୍ଦ୍ର ଭୂତଳଜଳ କର୍ତ୍ତୃପକ୍ଷଙ୍କର ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟରୁ ମିଳିଥାଏ । ଆହୁରି ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ୨୦୧୧ ମସିହା ରେ ହୋଇଥିବା ଭୂତଳଜଳ ସମ୍ପଦ ଆକଳନ ଅନୁଯାୟୀ ପ୍ରକଳ୍ପ ଅଞ୍ଚଳ କେଉଁ ଶ୍ରେଣୀରେ ଅନ୍ତର୍ଭୁକ୍ତ (କିମ୍ବା କେନ୍ଦ୍ର ଭୂତଳଜଳ ବୋର୍ଡ ଦ୍ୱାରା ହୋଇଥିବା ନୂତନ ଆକଳନ) । ଏହି ଆକଳନ ବିଭିନ୍ନ ଅଞ୍ଚଳକୁ ନିରାପଦ, କମ୍ ସଂକଟାପନ୍ନ, ସଙ୍କଟାପନ୍ନ, ଏବଂ ଅତ୍ୟଧିକ ଶୋଷିତ ଇତ୍ୟାଦି ଶ୍ରେଣୀରେ ବିଭକ୍ତ କରିଛି । ରାଜ୍ୟ ପ୍ରଦୃଷ୍ଟ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନ କାର୍ଯ୍ୟକରିବା ନିମନ୍ତେ ସମ୍ମତି ପ୍ରଦାନ ସମୟରେ ଓ ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରଣାଳୟ ପରିବେଶ ମଞ୍ଜୁରୀ ପ୍ରଦାନ ବେଳେ ଭୂତଳ ଜଳର ଉତ୍ତୋଳନ ସଂକ୍ରାନ୍ତୀୟ ସର୍ତ୍ତ ଉଲ୍ଲେଖ କରିଥାନ୍ତି, ଯାହାକୁ କି ଦେଖିବାକୁ ହେବ । ଆହୁରି ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ରାଜ୍ୟ ଭୂତଳଜଳ ସଂକ୍ରାନ୍ତରେ କିଛି ଆଇନ ପ୍ରଣୟନ କରିଛି କି ଯାହା ଏଠାରେ ପ୍ରୟୋଗ କରାଯାଇପାରିବ । (କେନ୍ଦ୍ର ଭୂତଳଜଳ ବୋର୍ଡର ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ ଜମ୍ମୁ, ଧର୍ମଶାଳା, ଚଣ୍ଡିଗଡ଼, ଡେହରାଡୁନ, ଲକ୍ଷ୍ନୌ, ଜୟପୁର, ପାଟନା, କୋଲକତା, ଚୌହାଟା, ଅହମ୍ମଦାବାଦ, ନାଗପୁର, ଭୋପାଳ, ରାୟପୁର, ଭୁବନେଶ୍ୱର, ହାଇଦ୍ରାବାଦ, ବାଙ୍ଗାଲୋର, ଚେନ୍ନାଇ ଓ ତିରୁଭାନଗପୁରରେ ଅବସ୍ଥିତ)

ଆଇନ	ସମ୍ବନ୍ଧୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ପଞ୍ଚାୟତ କିମ୍ବା ମ୍ୟୁନିସିପାଲିଟିର ନିର୍ଦ୍ଦେଶ (ନୋ ଅବଜେକ୍ସନ୍): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ସଂପୃକ୍ତ ପଞ୍ଚାୟତ କିମ୍ବା ମ୍ୟୁନିସିପାଲିଟିରୁ ନିର୍ଦ୍ଦେଶ ପତ୍ର (ନୋ ଅବଜେକ୍ସନ୍ ସନ୍ ପାରିସିକେଟ) ଅଣାଯାଇଛି ହୁଁ କି ନାହିଁ	୧. ସରପଞ୍ଚ/ପଞ୍ଚାୟତ ମୁଖ୍ୟ ୨. ନିର୍ଦ୍ଦିଷ୍ଟ ମ୍ୟୁନିସିପାଲି କର୍ମଚାରୀ/ ମ୍ୟୁନିସିପାଲିଟି କମିଶନର	ପ୍ରତ୍ୟେକ ରାଜ୍ୟର ନିଜର ପଞ୍ଚାୟତ ଆଇନ ଅଛି
୨. ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ ପାଇଁ ଅନୁମତି (ଯାଞ୍ଚ କରିବାକୁ ହେବ ଶିଳ୍ପି ବହୁତକଳ ବ୍ୟବହାର କରୁଥିବା ଶିଳ୍ପରୁପେ ଶ୍ରେଣୀକୃତ କି ନାହିଁ । ଦେଖିବାକୁ ହେବ ଯେ ଶିଳ୍ପ ପ୍ରତିଷ୍ଠା ହୋଇଥିବା ଅଞ୍ଚଳରେ ସ୍ଥାପନ ପାଇଁ ଉପଯୁକ୍ତ କି ନୁହେଁ । ଯଦି ହଁ, ତେବେ ଦେଖିବାକୁ ହେବ ଯେ ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ କରିବା ପାଇଁ ଏହା ନିର୍ଦ୍ଦେଶ ପତ୍ର ପାଇଛି କି ନାହିଁ । ଆହୁରି ମଧ୍ୟ ଦେଖିବାକୁ ହେବ ଯେ ନିର୍ଦ୍ଦେଶ ପତ୍ରରେ ଦର୍ଶାଯାଇଥିବା ସର୍ତ୍ତର ଏହା ଉଲ୍‌ଫାନ୍ କରୁଛି କି ନାହିଁ ।)	୧. ଜିଲ୍ଲା କଲେକ୍ଟର/ ମ୍ୟୁନିସିପାଲିଟିର ମୁଖ୍ୟ ୨. କେନ୍ଦ୍ର ଭୂତଳଜଳ ବୋର୍ଡର ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ	ଅନୁକ୍ଷେପ-୩, ୬, ୮ ଭୂତଳଜଳ ଉତ୍ତୋଳନ ପାଇଁ ନିର୍ଦ୍ଦେଶ ପତ୍ର ଅନୁକ୍ଷେପ-୬ (ଖ) (ଯଦି ଶିଳ୍ପ ପ୍ରତିଷ୍ଠାନ ନିର୍ଦ୍ଦେଶ ପତ୍ରରେ ଉଲ୍ଲେଖିତ ସର୍ତ୍ତର ପାଳନ କରୁନାଏ)

¹CGWB କାର୍ଯ୍ୟାଳୟ ଜମ୍ମୁ, ଧର୍ମଶାଳା, ଚଣ୍ଡିଗଡ଼, ଡେହରାଡୁନ, ଲକ୍ଷ୍ନୌ, ଜୟପୁର, ପାଟନା, କୋଲକତା, ଚୌହାଟା, ଅହମ୍ମଦାବାଦ, ନାଗପୁର, ଭୋପାଳ, ରାୟପୁର, ଭୁବନେଶ୍ୱର, ହାଇଦ୍ରାବାଦ, ଚେନ୍ନାଇ, ତିରୁଭାନଗପୁର ଠାରେ ଅଛି ।

<p>3. EIA Notification, 2006 Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition.</p>	<p>1. SEIAA (if Category B project) 2. MoEFCC (if Category A project)</p>	<p>Section 10 on monitoring and compliance. Environmental clearance letters mention the amount of water to be required by the industry and the source. They would also have a specific condition related to drawing of water and the number of borewells allowed for the same.</p>
<p>Site specific laws</p>		
<p>4. ESA, CVCA, Critically Polluted Area, etc. CEPI: Check whether any special orders, notifications or guidelines have been issued to restrict drawing of water activity in a notification for an ESA, CVCA, Critically Polluted Area</p>	<p>1. MoEFCC 2. ESA Management Committee 3. SCZMA 4. PCB</p>	<p>1. Section 3 (2) (v) of the EPA, 1986 2. Section 4 of the CRZ Notification, 2011 3. Section 19 of the Air Act, 1981 or the Water Act, 1974</p>
<p>5. CRZ Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zone(s).</p>	<p>1. SCZMA 2. DLCC (under the District Collector)</p>	<p>Section 3</p>

CONDITIONS FROM AN ENVIRONMENTAL CLEARANCE LETTER OF A CHEMICAL PLANT

- Permission to draw ground water shall be obtained from the competent authority prior to construction/operation of the project.
- The ground water level and its quality should be monitored regularly in consultation with Central Ground Water Authority.

<p>୩. ଏନ୍‌ଭାଇଇଏମ୍‌ଏସ୍‌ଇମ୍‌ଏସ୍‌ଆସ୍‌ଏସ୍‌ମେଣ୍ଟ ନୋଟିଫିକେସନ୍ ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ପ୍ରକଳ୍ପ ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ । ଯଦି ହଁ, ତେବେ ଦେଖିବାକୁ ହେବ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ କୌଣସି ସର୍ତ୍ତର ଖିଲାପ କରୁଛି କି ?</p>	<p>୧. “ଖ” ଶ୍ରେଣୀ (“ବ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ଷ୍ଟେଟ୍ ଏନ୍‌ଭାଇଇଏମ୍‌ଏସ୍‌ଇମ୍‌ଏସ୍‌ଆସ୍‌ଏସ୍‌ମେଣ୍ଟ ଅଥରିଟି ୧. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ କଳମ୍ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହତ୍ତ୍ୱାଳୟ</p>	<p>ତଦାରଖ ଓ ସର୍ତ୍ତପାଳନ ପାଇଁ ଅନୁକ୍ରେମ- ୧୦ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଶିଳ୍ପ ପାଇଁ ଆବଶ୍ୟକ ଜଳର ପରିମାଣ ଓ ଉତ୍ତ ଉଲ୍ଲେଖିତାଏ । ଏଥିରେ ଜଳ ଉତ୍ତୋଳନ ଓ କେତେଟି ଗଭୀର ନଳକୂପ ଖନନ କରାଯାଇପାରିବ ସେ ସମ୍ପର୍କିତ ସର୍ତ୍ତ ଉଲ୍ଲେଖ ଥାଏ ।</p>
<p>ସ୍ଥାନ ବିଶେଷକ ଆଇନ</p>		
<p>୪. ଇସସ୍‌ଏସ୍‌ସି, ସିଭିସିଏସ୍‌ସି, ସିଭିସିଆଇ: ଦେଖିବାକୁ ହେବ ଯେ, ଏସ୍‌ଏସ୍‌ସି, ସିଭିସିଏସ୍‌ସି, ସଙ୍କଟାପନ୍ନ ପ୍ରଦୂଷିତ ଅଞ୍ଚଳ ବିଜ୍ଞପ୍ତିରେ ଜଳ ଉତ୍ତୋଳନ ଉପରେ କଟକଣା ଲଗାଉଥିବା କୌଣସି ବିଶେଷ ଆଦେଶ, ବିଜ୍ଞପ୍ତି କିମ୍ବା ଦିଶାନିର୍ଦ୍ଦେଶ ଅଛି ନା ନାହିଁ</p>	<p>୧. ପରିବେଶ କଳମ୍ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମହତ୍ତ୍ୱାଳୟ ୨. ଇସସ୍‌ଏସ୍‌ସି ମ୍ୟାନେଜମେଣ୍ଟ କମିଟି । ୩. ଷ୍ଟେଟ୍, କୋଷ୍ଟାଲ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟି ୪. ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ</p>	<p>୧. ପରିବେଶ ସୁରକ୍ଷା ଆଇନ ୧୯୮୬ର ଅନୁକ୍ରେମ-୩(୨)ଭି ୨. ସିଆରଜେଡ୍ ନୋଟିଫିକେସନ୍ ୨୦୧୧ ର ଅନୁକ୍ରେମ - ୪ ୩. ଏଆର ଆକ୍ଟ ୧୯୮୧ କିମ୍ବା ଖ୍ୱାଟର ଆକ୍ଟ, ୧୯୭୪ର ଅନୁକ୍ରେମ- ୧୯ ୪। ରା-୩</p>
<p>୫. କୋଷ୍ଟାଲ ରେଗୁଲେସନ୍ କୋନ୍ (ସିଆରଜେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧ : ଯାଞ୍ଚ କରିବାକୁ ହେବ ଏହା ସିଆରଜେଡ୍ କୋନ୍ରେ ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କାର୍ଯ୍ୟ କି ନୁହେଁ</p>	<p>୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥିତ ଷ୍ଟେଟ୍ କୋଷ୍ଟାଲ କୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟି (ସିଜେଡ୍‌ଏମ୍‌ଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କର ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ୱରାୟ କୋଷ୍ଟାଲ କମିଟି (ଡି.ଏଲ୍.ସି.ସି)</p>	<p>୧. ପରିବେଶ ସୁରକ୍ଷା ଆଇନ ୧୯୮୬ର ଅନୁକ୍ରେମ-୩(୨)ଭି ୨. ସିଆରଜେଡ୍ ନୋଟିଫିକେସନ୍ ୨୦୧୧ ର ଅନୁକ୍ରେମ - ୪ ୩. ଏଆର ଆକ୍ଟ ୧୯୮୧ କିମ୍ବା ଖ୍ୱାଟର ଆକ୍ଟ, ୧୯୭୪ର ଅନୁକ୍ରେମ- ୧୯ ୪। ରା-୩</p>

ରାସାୟନିକ ଦ୍ରବ୍ୟ କାରଖାନା ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରର ସର୍ତ୍ତାବଳୀ

- ପ୍ରକଳ୍ପର ନିର୍ମାଣ /କାର୍ଯ୍ୟକ୍ଷମ କରିବା ପୂର୍ବରୁ ସକ୍ଷମ କର୍ତ୍ତୃପକ୍ଷଙ୍କଠାରୁ ଭୂତଳ ଜଳ ଉତ୍ତୋଳନ ନିମନ୍ତେ ଅନୁମତି ଆଣିବାକୁ ହେବ ।
- କେନ୍ଦ୍ର ଭୂତଳଜଳ କର୍ତ୍ତୃପକ୍ଷଙ୍କର ସହ ପରାମର୍ଶ କରି ଭୂତଳଜଳର ସ୍ତର ଓ ଏହାର ମାନର ତଦାରଖ କରିବା ଉଚିତ୍ ।

SCENARIO 14

What is the complaint?

A group of agricultural workers in the village were encountering a strange problem in their paddy fields; a pipeline from under the ground had been lifted up during the monsoons. It was obstructing their way and the flow of water. They had to climb the huge pipeline every time they had to move around in the fields. They now had to also make arrangements for water to be sprinkled on one side of the field. One of the workers remembered that the pipeline had been laid years before for carrying water for the power plant in their village. They approached the local community worker who worked on environmental issues for advice.

Is a law being violated?

While laying pipelines for industrial operations, permission has to be taken for acquiring the land needed for this. There are state specific laws that deal with the acquisition of right of user in land for laying underground pipelines for carrying of water and gas. The permissions regarding this could be checked. The permissions that the power plant has taken for the environmental impacts can also be looked at.



ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୪

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଗ୍ରାମର କେତେକ କୃଷି ଶ୍ରମିକ ସେମାନଙ୍କର ଧାନ ଜମିରେ ଏକ ଅଭୂତ କିସମର ସମସ୍ୟାର ସମ୍ମୁଖୀନ ହେଉଛନ୍ତି । ବର୍ଷାଦିନେ ଭୂମି ତଳେ ଯାଇଥିବା ପାଇପ୍ ଲାଇନ୍‌କୁ ଉପରକୁ ଉଠାଇ ଦିଆଯାଇଛି । ଏହା ସେମାନଙ୍କର ଯାତାୟତ ଓ ଜଳ ପ୍ରବାହକୁ ଅବରୋଧ କରୁଛି । ନିଜ ନିଜ ଜମିରେ ସେମାନେ ଯିବା ଆସିବା କରିବା ବେଳେ ସେମାନଙ୍କୁ ସୁ ଉଚ୍ଚ ପାଇପ୍‌ଲାଇନ୍ ଉପରେ ଚଢ଼ି ଯିବା ଆସିବା କରିବାକୁ ପଡ଼ୁଛି । ଆହୁରି ମଧ୍ୟ ଜମିର ଗୋଟିଏ ପାର୍ଶ୍ୱରେ ସେମାନଙ୍କୁ ଜଳ ସିଞ୍ଚନର ବ୍ୟବସ୍ଥା କରିବାକୁ ହେବ । ସେମାନଙ୍କର ମଧ୍ୟରୁ ଜଣେ ଶ୍ରମିକ ମନେ ପକାଇ କହିଲେ ଯେ ଅନେକ ବର୍ଷ ତଳେ ବିଦ୍ୟୁତ୍ ଉତ୍ପାଦନ କେନ୍ଦ୍ରକୁ ପାଣି ଯୋଗାଇବା ପାଇଁ ଏହି ପାଇପ୍ ଲାଇନ୍ ବିଛାଯାଇଥିଲା । ସେମାନେ ତାଙ୍କ ଅଞ୍ଚଳରେ ସମାଜକର୍ମୀଙ୍କୁ ଏ ବିଷୟରେ ପରାମର୍ଶ କରିଛନ୍ତି ।

ଆଇନ୍ ଉନଘଂନ ହେଉଛି କି ?

ଶିଳ୍ପକାର୍ଯ୍ୟ ପାଇଁ ପାଇପ୍‌ଲାଇନ୍ ବିଛାଇବାକୁ ହେଲେ ଏଥିପାଇଁ ଆବଶ୍ୟକ ଜମି ଅଧିଗ୍ରହଣ ପାଇଁ ଅନୁମତି ନେବାକୁ ହୁଏ । ଭୂତଳ ପାଇପ୍‌ଲାଇନ୍ ସାହାଯ୍ୟରେ ଜଳ ଏବଂ ଗ୍ୟାସ୍ ପରିବହନ କ୍ଷେତ୍ରରେ ଜମି ଅଧିଗ୍ରହଣ ଓ ଜମି ବ୍ୟବହାରକାରୀଙ୍କର ଅଧିକାର ସଂକ୍ରାନ୍ତରେ ଭିନ୍ନ ଭିନ୍ନ ରାଜ୍ୟ ନିଜ ନିଜର ଆଇନ୍ ପ୍ରଣୟନ କରିଛନ୍ତି । ଏ ବାବଦରେ ମିଳିଥିବା ଅନୁମତିକୁ ଦେଖିବାକୁ ହେବ । ଶିଳ୍ପ ପରିବେଶ ପ୍ରଭାବ ସମ୍ବନ୍ଧୀୟ ଅନୁମତିକୁ ମଧ୍ୟ ବିଚାରକୁ ନେବାକୁ ହେବ ।

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related laws		
1. EIA Notification, 2006: Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition.	1. SEIAA (if Category B project) 2. MoEFCC (if Category A project)	Section 10 on monitoring and compliance Environmental clearance letters mention the amount of water required by the industry and the source. They would also have a specific condition related to drawing of water and the number of borewells allowed for the same.
State specific laws		
2. Chhattisgarh Underground Pipeline Act, 2004	State Government	Check the provisions in case of disturbance of user rights of the land
3. Orissa Irrigation Rules, 1961	Water Resources Department	Section 23-A

ଆଇନ	ସମ୍ପର୍କୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି ଅଧିକାର ଏବଂ ସମ୍ପତ୍ତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ଏନ୍‌ଭାଇଇନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ନୋଟିଫିକେସନ୍, ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ପ୍ରକଳ୍ପ ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ । ଯଦି ହଁ, ତେବେ ଦେଖିବାକୁ ହେବ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ କୌଣସି ସର୍ତ୍ତର ଖିଲାପ କରୁଛି କି ?	୧. “ଖ” ଶ୍ରେଣୀ (“ବି” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ଷ୍ଟେଟ୍ ଏନ୍‌ଭାଇଇନ୍‌ମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ ଅଧିକାରୀ ୨. “କ” ଶ୍ରେଣୀ (“ଏ” କାଟେଗୋରୀ) ପ୍ରକଳ୍ପ ହୋଇଥିଲେ ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ତଦାରଖ ଓ ସର୍ତ୍ତପାଳନ ପାଇଁ ଅନୁକ୍ଳେଦ - ୧୦ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଶିଳ୍ପ ପାଇଁ କେଉଁ ପରିମାଣର ଜଳର ଆବଶ୍ୟକ ଓ ଏହାର ଉତ୍ତ ସମ୍ପର୍କରେ ଉଲ୍ଲେଖିଥାଏ । ଏଥିରେ ଜଳ ଉତ୍ସାହନ ଓ କେତୋଟି ଗଭୀର ନଳକୂପ ଖନନ ହେବ । ସେ ବିଷୟକ ବିଶେଷ ସର୍ତ୍ତ ମଧ୍ୟ ଉଲ୍ଲେଖ କରାଯାଇଥାଏ
ରାଜ୍ୟ ବିଶେଷକ ଆଇନ୍		
୨. ଛତିଶଗଡ଼ ଅଣ୍ଡରଗ୍ରାଉଣ୍ଡ ପାଇପ୍‌ଲାଇନ୍ ଆଇନ୍ ୨୦୦୪: (ଛତିଶଗଡ଼ ଭୂତଳ ପାଇପ୍‌ଲାଇନ୍ ଆଇନ୍ ୨୦୦୪)	ରାଜ୍ୟ ସରକାର	ବ୍ୟବହାରକାରୀର ଅଧିକାର କ୍ଷୁଣ୍ଣ ହେଲେ ଏ ସଂକ୍ରାନ୍ତରେ କଣ ବ୍ୟବସ୍ଥା ଅଛି, ଦେଖିବାକୁ ହେବ
୩. ଓଡ଼ିଶା ଇରିଗେସନ୍ ରୁଲ୍‌ସ୍ ୧୯୬୧	ଜଳ ସମ୍ପଦ ବିଭାଗ	ଅନୁକ୍ଳେଦ - ୨୩ (କ)

SCENARIO 15

What is the complaint?

A new highway was being constructed near a village. This had led to a couple of stone crusher units being set up in the village. One of the stone crusher units was situated in between two villages. The stone crusher unit operates through the day and night. Near the unit there are houses, agricultural fields and drinking water wells. There is also a primary school located right next to the stone crusher. The large amount of dust generated every-day was entering these spaces and the noise too was a big bother. The villagers began to notice that the health issues were increasing. The mango, cashew and vegetable crops produced last year were also damaged.

Is a law being violated?

Stone crushing units before being set up require permissions and consents to be taken from various avenues. These permissions and consents come with specific conditions to reduce the environmental impact of these units. It is quite likely that a specific environmental or forest clearance for the establishment of a stone crusher will not be found. Rather, there would be a reference to its siting and safeguards in the approval letter for the highway project. There are also state laws regulating the functioning of stone crusher units, which could be looked into to see whether the required permissions have been obtained. Further, since the dust generated and pollution caused is a nuisance to the public, provisions under the IPC can also be applied.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୫

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଏକ ଗ୍ରାମ ନିକଟରେ ନୂଆ ରାଜପଥର ନିର୍ମାଣ ହେଉଥିଲା । ଏହା ଯୋଗୁଁ ଗ୍ରାମରେ ଦୁଇଟି କ୍ରସର ଆରମ୍ଭ ହେଲା । ଏହା ମଧ୍ୟରୁ ଗୋଟିଏ କ୍ରସର ଦୁଇଟି ଗାଁ ମଧ୍ୟରେ ଅବସ୍ଥିତ । ଏହି କ୍ରସର ଦିନରାତି ଚାଲୁରହେ । କ୍ରସର ପାଖରେ ଜନବସତି, ଚାଷଜମି ଓ ପାନୀୟଜଳ କୂପ ଅଛି । କ୍ରସରର ଅତି ନିକଟରେ ଗୋଟିଏ ପ୍ରାଥମିକ ବିଦ୍ୟାଳୟ ମଧ୍ୟ ଅଛି । ପ୍ରତ୍ୟେକ ଦିନ କ୍ରସର ଯୋଗୁଁ ସୃଷ୍ଟି ହେଉଥିବା ଧୂଳି ଏହି ସବୁ ସ୍ଥାନରେ ପଶି ଯାଉଥିଲା ଏବଂ କ୍ରସରରୁ ବାହାରିଥିବା ଶବ୍ଦ ମୁଣ୍ଡବ୍ୟଥାର କାରଣ ପାଲଟିଯାଇଛି । ଗ୍ରାମବାସୀ କହୁଛନ୍ତି ଯେ ଗ୍ରାମରେ ସ୍ୱାସ୍ଥ୍ୟସମସ୍ୟା ବଢ଼ିବାରେ ଲାଗିଛି । ଗତବର୍ଷ ଫଳିଥିବା ଆମ୍ବ, କାଜୁ ଓ ପନିପରିବା ମଧ୍ୟ ନଷ୍ଟ ହୋଇଛି ।

ଆଇନ୍ ଉଲ୍ଲଙ୍ଘନ ହୋଇଛି କି ?

କ୍ରସର ପ୍ରତିଷ୍ଠା ହେବା ପୂର୍ବରୁ ଭିନ୍ନ ଭିନ୍ନ କର୍ତ୍ତୃପକ୍ଷଙ୍କଠାରୁ ଏହାକୁ ଅନୁମତି ଓ ସମ୍ମତି ନେବାକୁ ହୁଏ । ଏହାର ପରିବେଶ ପ୍ରଭାବକୁ ହ୍ରାସ କରିବା ଉଦ୍ଦେଶ୍ୟରେ ଅନୁମତି ଓ ସମ୍ମତିରେ ବିଶେଷ ସର୍ତ୍ତାବଳୀର ଉଲ୍ଲେଖ ଥାଏ । ପ୍ରାୟତଃ କ୍ରସର ସ୍ଥାପନ ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ କିମ୍ବା ଜଙ୍ଗଲ ଜମି ବ୍ୟବହାର ମଞ୍ଜୁରୀ ସମ୍ପର୍କିତ ନିର୍ଦ୍ଦିଷ୍ଟ ବ୍ୟବସ୍ଥା ନଥାଏ । ରାଜପଥ ନିର୍ମାଣ ପ୍ରକଳ୍ପ ଅନୁମୋଦନ ପତ୍ରରେ ଏହାର ସ୍ଥାନ / ଅବସ୍ଥିତି ଓ ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା ବାବଦରେ ଉଲ୍ଲେଖ ଥାଏ । ଭିନ୍ନ ଭିନ୍ନ ରାଜ୍ୟ କ୍ରସରର କାର୍ଯ୍ୟକଳାପକୁ ନିୟନ୍ତ୍ରଣ କରିବା ପାଇଁ ଆଇନ୍ ପ୍ରଣୟନ କରିଆଣ୍ଟି ଯାହାକୁ କି ଆମକୁ ଦେଖିବାକୁ ହେବ । ଆଇନ୍ ଅନୁଯାୟୀ ଆବଶ୍ୟକ ଅନୁମତି ନିଆଯାଇଛି କି ନାହିଁ ତାହା ଯାଞ୍ଚ କରିବାକୁ ହେବ । ଯେହେତୁ ଧୂଳି ଓ ଶବ୍ଦ ସୃଷ୍ଟି ହେବା ଫଳରେ ଏହା ଜନ ଜୀବନକୁ ବିପନ୍ନ କରୁଛି ତେଣୁ ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍‌ରେ ଥିବା ବ୍ୟବସ୍ଥାକୁ ଏ କ୍ଷେତ୍ରରେ ପ୍ରୟୋଗ କରାଯାଇପାରେ ।



Photo credit: Maruti Gouda / EPSCA ଡିଡ଼ା ଶ୍ରେୟ: ମାରୁତି ଗଉଡ଼ା

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related		
1. EIA Notification, 2006: Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition.	MoEFCC	Section 10 on monitoring and compliance Section 2 related to Schedule 7 (f) of the EIA Notification requires environmental clearance for highway projects Check whether the environmental clearance letter has any specific conditions related to distance of the stone crusher unit from habitations
2. Air (Prevention and Control of Pollution) Act, 1981: Check whether the consents to establish and operate have been sought and if their conditions are being complied with	SPCB or its nearest regional office	Section 21 (in case the company has not complied with condition of the consent to operate) Section 31 A where the SPCB can give directions for closure or stopping water, or electricity supply in case of violation
State specific laws		
3. Karnataka Regulation of Stone Crushers Act, 2011:	District Stone Crushers Licensing and Regulation Authority	Section 3 where it is specified that a license has to be obtained by stone crushers Section 9 which specifies the duties of the Authority
Public nuisance under criminal law		
4. IPC, 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines a public nuisance

ଆଇନ୍	ସମ୍ବନ୍ଧୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି, ଅଧିକାର ଏବଂ ସମ୍ମତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ଏନ୍‌ଭାଇଇନ୍‌ମେଣ୍ଟ୍ ଇମ୍ପାକ୍ଟ ଆସେସ୍‌ମେଣ୍ଟ୍ ନୋଟିଫିକେସନ୍ , ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ କ୍ରସର ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ ଯଦି ହଁ, ତେବେ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ କୌଣସି ସର୍ତ୍ତର ଖିଲାପ କରୁଛି କି ନାହିଁ ତାହା ଯାଞ୍ଚ କରିବାକୁ ହେବ ।	୧. ପରିବେଶ କଳାଳ ଓ କଳବାୟୁ ୨. ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ତଦ୍ଦ୍ୱାରା ଓ ସର୍ତ୍ତପାଳନ ପାଇଁ ଅନୁଚ୍ଛେଦ - ୧୦ ଇ.ଆଇ.ଏ ନୋଟିଫିକେସନ୍‌ର ଅନୁଚ୍ଛେଦ ୨ର ସୂଚୀ ୬(ବ) ଅନୁଯାୟୀ ରାଜପଥ ପ୍ରକଳ୍ପ ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ଆବଶ୍ୟକ । ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ କ୍ରସରର ଦୂରତା ଜନ ବସତିଠାରୁ କେତେ ହେବ ସେ ବାବଦରେ କିଛି ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଅଛି କି ନାହିଁ ।
୨. ଏଆର (ପ୍ରିଭେନ୍‌ସନ୍ ଏଣ୍ଡ କଣ୍ଟ୍ରୋଲ ଅଫ୍ ପଲ୍ୟୁସନ୍) ଆକ୍ଟ ବାୟୁ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ଓ ନିୟନ୍ତ୍ରିତ) ଆଇନ୍ ଯାହା ୧୯୮୧ ମସିହାରେ ପ୍ରଣୟନ ହୋଇଥିଲା (ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ଓ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ମତି)	ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ଼ ଓ ଏହାର ନିକଟସ୍ଥ ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ	ଅନୁଚ୍ଛେଦ-୨୧ (ଯଦି କମ୍ପାନୀ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ମତି ପତ୍ରର ସର୍ତ୍ତକୁ ପାଳନ କରିନଥାଏ ଅନୁଚ୍ଛେଦ-୩୧ (କ) ଯାହା ବଳରେ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ଼ ସର୍ତ୍ତ ଉଲ୍ଲଙ୍ଘନ ହେତୁ ଜଳ ଓ ବିଦ୍ୟୁତ୍ ଯୋଗାଣକୁ ବନ୍ଦ କରିବା ପାଇଁ ନିର୍ଦ୍ଦେଶ ଦେଇପାରିବେ ।
ରାଜ୍ୟ ବିଶେଷକ ଆଇନ୍ (ଉଦାହରଣ)		
୩. କର୍ଣ୍ଣାଟକ ରେଗୁଲେସନ୍ ଅଫ୍ ଷ୍ଟୋନ୍ କ୍ରସରସ୍ ଆକ୍ଟ	୧. ଜିଲ୍ଲା ପଥର କ୍ରସର ନିୟନ୍ତ୍ରଣ କମିଟି	ଅନୁଚ୍ଛେଦ-୩ ଯାହା କ୍ରସର ପ୍ରତିଷ୍ଠା ପାଇଁ ଲାଇସେନ୍ସ ଆବଶ୍ୟକ ବୋଲି ନିର୍ଦ୍ଦେଶ କରୁଛି ଅନୁଚ୍ଛେଦ-୯ କମିଟିର କର୍ତ୍ତବ୍ୟ ବାବଦରେ ଉଲ୍ଲେଖ ଅଛି ।
ଫୈକ୍‌ଦାରୀ ଆଇନ୍‌ରେ ଜନଜୀବନରେ କ୍ଷତି		
୪. ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁଚ୍ଛେଦ-୧୯ ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିକୁ ବିଚାରପତିର ନ୍ୟାୟିକ କ୍ଷମତା ପ୍ରଦାନ କରେ ଅନୁଚ୍ଛେଦ-୨୬୮ ଜନଜୀବନରେ କ୍ଷତିର ସଂଜ୍ଞା ନିରୂପଣ କରୁଛି

CONDITIONS RELATED TO CONSENT TO OPERATE A STONE CRUSHING UNIT

- In case of any public complaint due to operations of the unit in respect to air pollution, the industry shall stop its operations immediately.
- Whenever the stone crushing unit is in the vicinity of the water body, the unit must have a restraining wall between the premises and the water body to prevent carryover of fine dust to the water body in the rainy season.
- The solid wastes collected in the factory premises shall be disposed off scientifically, to the satisfaction of the Board, so as to not cause fugitive emissions, dust pollution or water pollution problems through leaching etc. of any kind.
- The applicant shall plant and maintain adequate number of trees like Eucalyptus, Subadul, etc. in and around the industry with a density not less than 1000 trees per acre which can arrest the dust emissions escaping into the surrounding area and improve the environment and aesthetic appearance of the industry and surroundings.

CONDITIONS FROM THE ENVIRONMENTAL CLEARANCE OF A HIGHWAY PROJECT

- The hot mix plant shall be located at least 500 m away from habitation and on the barren land to avoid its adverse impact on the human population.
- It is noted that the impact zone is 50-200 m and the nearby habitation is at 600 m. However, the project proponents shall intimate the local authority before carrying out the blasting. If there is any damage caused due to blasting, the project proponent shall compensate 100% under the notice of the local authority.
- The blasting shall be restricted- only from 8 am to 6 pm.

ପଥର କ୍ଳସ୍ତର କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ମତିର ସର୍ତ୍ତାବଳୀ

- କ୍ଳସ୍ତର ଯୋଗୁଁ ବାୟୁ ପ୍ରଦୂଷଣ ହେଉଛି ବୋଲି ଜନସାଧାରଣ ଅଭିଯୋଗ କଲେ କ୍ଳସ୍ତରକୁ ତତ୍କ୍ଷଣାତ୍ ବନ୍ଦ କରିବାକୁ ହେବ ।
- ଯଦି କ୍ଳସ୍ତର ପାଖରେ ଜଳଭଣ୍ଡ ଥାଏ ତେବେ କ୍ଳସ୍ତର ଓ ଜଳଭଣ୍ଡ ମଧ୍ୟରେ ଏକ କାନ୍ଥ ନିର୍ମାଣ କରିବାକୁ ହେବ ଯାହା କ୍ଳସ୍ତର ସୃଷ୍ଟି କରୁଥିବା ସୁକ୍ଷ୍ମଧୂଳି ବର୍ଷାଦିନେ ଜଳସ୍ରୋତରେ ବୋହିଯାଇ ଜଳଭଣ୍ଡରେ ମିଶିବାକୁ ରୋକିପାରିବ ।
- କ୍ଳସ୍ତର ପରିସର ମଧ୍ୟରେ ଜମା ହେଉଥିବା କଠିନ ବର୍ଜ୍ୟବସ୍ତୁକୁ ବୈଜ୍ଞାନିକ ପଦ୍ଧତିରେ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡର ନିର୍ଦ୍ଦେଶ ଅନୁଯାୟୀ ନିଷ୍କାସନ କରାଯିବ ଯେପରିକି ଆବର୍ଜନା ପରିସର ବାହାରକୁ ନିର୍ଦ୍ଦାୟକ ଭାବେ ଏବଂ ଏହା ଧୂଳି ପ୍ରଦୂଷଣ ଓ ଆବର୍ଜନା ଭୂତଳକୁ ପ୍ରବେଶ କରି ଜଳପ୍ରଦୂଷଣ ନକରିବ ।
- ଆବେଦନକାରୀ କ୍ଳସ୍ତର ପରିସର ଭିତରେ ଓ ଚତୁର୍ପାର୍ଶ୍ୱରେ ଇନ୍ଦୁକାଲିପତା ଓ ସୁବାଡୁଲପତା ଏକର ପଛ ୧୦୦୦ ବୃକ୍ଷରୋପଣ କରିବ ଓ ଏହାର ରକ୍ଷଣାବେକ୍ଷଣ କରିବ ଯେପରି କ୍ଳସ୍ତର ଯୋଗୁଁ ସୃଷ୍ଟି ହେଉଥିବା ଧୂଳି ପରିବେଷଣକୁ ପ୍ରଭାବିତ କରିପାରିବ ନାହିଁ ଏବଂ ଏହା କ୍ଳସ୍ତର ପରିସର ଓ ଏହାର ଚତୁର୍ପାର୍ଶ୍ୱର ସୌନ୍ଦର୍ଯ୍ୟ ବଢାଇବ ।

ରାଜପଥ ପ୍ରକଳ୍ପ ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ସର୍ତ୍ତ

- ହଟ୍ ମିକ୍ସ ପ୍ଲାଣ୍ଟ ଜନବସତିଠାରୁ ୫୦୦ ମିଟର ଦୂରତାରେ ଏବଂ ଅନୁର୍ବର ଭୂମିରେ ସ୍ଥାପନ କରାଯିବ ଯାହାଫଳରେ ଜନସାଧାରଣଙ୍କର ଉପରେ ଏହାର ପ୍ରତିକୂଳ ପ୍ରଭାବକୁ ଏଡ଼ାଯାଇପାରିବ ।
- ବ୍ଲାଷ୍ଟିଂ ପ୍ରଭାବ ଅଞ୍ଚଳ ୫୦-୨୦୦ ମିଟର ଏବଂ ଏହା ନିକଟବର୍ତ୍ତୀ ଜନବସତିଠାରୁ ୬୦୦ମିଟର ଦୂରରେ କରାଯିବା ଉଚିତ୍ । ପ୍ରକଳ୍ପ ପ୍ରସ୍ତାବକ ବ୍ଲାଷ୍ଟିଂ ପୂର୍ବରୁ ଆଞ୍ଚଳିକ କର୍ତ୍ତୃପକ୍ଷଙ୍କୁ ଏ ବାବଦରେ ଅବଗତ କରାଇବେ । ବ୍ଲାଷ୍ଟିଂ ଯୋଗୁଁ କୌଣସି କ୍ଷୟକ୍ଷତି ହେଲେ ପ୍ରକଳ୍ପ ପ୍ରସ୍ତାବକ ୧୦୦ ଶତକଡ଼ା କ୍ଷତିର ଭରଣା ଆଞ୍ଚଳିକ କର୍ତ୍ତୃପକ୍ଷଙ୍କ ବିଚାରକୁ ଆସି କରିବେ ।
- ବ୍ଲାଷ୍ଟିଂ ସମୟ ସକାଳ ୮ଟାରୁ ସଂଧ୍ୟା ୬ଟା ମଧ୍ୟରେ ସୀମିତ କରାଯିବ ।

SCENARIO 16

What is the complaint?

For the last couple of years since a mine has been operational, the large dump near it would always have flames on it. The people living in the area had noticed that it was because coal pieces were dumped there along with soil. Sometimes the dump would get so large that it would fall onto the common land surrounding it. Of late, the fires were getting more frequent, leading to a lot of smoke being generated. Those living nearby found it really troublesome and some even complained of breathing problems. They approached a community worker to ask for a solution.

Is a law being violated?

Before a coal mine is operational, permissions and consents are required to be taken from various avenues. These permissions and consents come with specific conditions that deal with the disposal of coal and where and how the overburden from these mines should be dumped. They even give the angle at which the overburden should be stacked. These conditions also provide for separation of the top soil, and backfilling using the overburden during the closure of the mines.

ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୬

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ଖଣି କାର୍ଯ୍ୟକ୍ଷମ ହେବା ଦିନରୁ ବିଗତ ଦୁଇବର୍ଷ ମଧ୍ୟରେ କୋଇଲା ଗଦାରେ ନିଆଁ ଲାଗୁଛି କୋଇଲା ଖଣ୍ଡ ମାଟି ସହିତ ମିଶି ଗଦା କରାଯାଇଥିବାରୁ ଏପରି ହେଉଛି ବୋଲି ସେ ଅଞ୍ଚଳର ଲୋକମାନଙ୍କର ଦୃଷ୍ଟିକୁ ଆସିଛି । ସମୟ ସମୟରେ କୋଇଲା ଗଦାର ଆକାର ଏତେ ବଡ଼ ହୋଇଯାଉଛି ଯେ ଏହା ତାର ଚତୁର୍ପାର୍ଶ୍ୱରେ ଥିବା ସର୍ବସାଧାରଣ ଜମିକୁ ଧସକି ମାଡ଼ିଯାଉଛି । ବିଗତ କିଛି ଦିନ ମଧ୍ୟରେ କୋଇଲା ଗଦାରେ ନିଆଁଲାଗିବ ଅନେକ ଥର ଘଟୁଛି ଯାହା ଫଳରେ ଧୁଆଁ ସୃଷ୍ଟି ହେଉଛି । କୋଇଲା ଗଦା ପାଖରେ ବସବାସ କରୁଥିବା ଲୋକମାନେ ଅସୁବିଧାର ସମ୍ମୁଖୀନ ହେଉଛନ୍ତି ଓ କେତେକ ନିଶ୍ୱାସ ପ୍ରଶ୍ୱାସରେ ସମସ୍ୟା ହେଉଥିବା ବାବଦରେ ଅଭିଯୋଗ କରୁଛନ୍ତି । ସମସ୍ୟାର ସମାଧାନ ପାଇଁ ସେମାନେ ଗୋଷ୍ଠୀ ସମାଜକର୍ମୀଙ୍କୁ ପରାମର୍ଶ କରିଛନ୍ତି ।

ଆଇନ୍ ଉଲ୍‌ଫାନ୍ ହେଉଛି କି ?

କୋଇଲା ଖଣିକୁ କାର୍ଯ୍ୟକ୍ଷମ କରିବା ପୂର୍ବରୁ ଭିନ୍ନ ଭିନ୍ନ କର୍ତ୍ତୃପକ୍ଷଙ୍କଠାରୁ ଅନୁମତି ଓ ସମ୍ମତି ନେବା ଆବଶ୍ୟକ । କୋଇଲା ଖଣିରୁ ବାହାରୁଥିବା କୋଇଲାର ଉତ୍ତୋଳନ, ପରିବହନ, ଆବର୍ଜନା ନିଷ୍କାସନ ଏବଂ ଏହାର ଆବର୍ଜନାକୁ କିପରି ଗଦା କରାଯିବ ସେ ସମ୍ପର୍କୀତ ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତାବଳୀ ଅନୁମତି ଓ ସମ୍ମତି ପତ୍ରରେ ଉଲ୍ଲେଖ ଥାଏ । ଏପରିକି ବର୍ଜ୍ୟବସ୍ତୁ / ଆବର୍ଜନାକୁ ଗଦା କରିବା ବେଳେ ଗଦାର ଉଠାଣି ବା ଗଡ଼ାଣିର ମାତ୍ରା ମଧ୍ୟ ଏଥିରେ ଦର୍ଶାଯାଇଥାଏ । ଭୂପୃଷ୍ଠର ଉପର ମାଟିକୁ ବର୍ଜ୍ୟ କୋଇଲାରୁ ଅଲଗା କରିବା ଏବଂ ବର୍ଜ୍ୟବସ୍ତୁ ଦ୍ୱାରା ଖଣି ଖନନ ପରେ ଭୂ-ଗର୍ଭକୁ ପୂରଣ କରିବାର ସର୍ତ୍ତ ମଧ୍ୟ ଏଥିରେ ଉଲ୍ଲେଖ କରାଯାଇଥାଏ ।



Photo credit: Ramlal Kariyam / ଫଟୋ ଚିତ୍ର ଶ୍ରେୟ: ରାମଲାଲ କରିୟମ

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related		
1. EIA Notification, 2006: Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition. of an environmental clearance letter.	1. MoEFCC	Section 10 on monitoring and compliance Check whether the Environmental clearance letter has any specific condition related to overburden dumps Section 2 Schedule 1 (a) of the EIA Notification
2. Air (Prevention and Control of Pollution) Act, 1981: Check whether the consents to establish and operate have been sought and if their conditions are being complied with	SPCB or its nearest regional office	Section 21 (incase the company has not complied with condition of the consent to operate) Section 31 A whereby in case of any violation, the SPCB can give directions for closure or stopping water or electricity supply
Public nuisance under criminal law		
3. IPC, 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines a public nuisance

CONDITIONS FROM A CONSENT TO OPERATE LETTER OF A COAL MINE

- Maximum height of overburden dump should be restricted as per the Mine Act. Benched off adequate width should be provided and slope should be maintained below 28 degree.
- Overburden and top soil should be dumped separately in the earmarked areas using techniques and precautions.
- The overburden should not be kept active for long period. The inactive dumps should be reclaimed and suitably planted over.

ଆଇନ୍	ସମ୍ବନ୍ଧୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି ଅଧିକାର ଏବଂ ସମ୍ପତ୍ତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ଏନଭାଇରନ୍ମେଣ୍ଟ ଇମ୍ପ୍ରୋଭମେଣ୍ଟ ଆକ୍ଟ ୧୯୮୬ (ପରିବେଶ ପ୍ରଦୂଷଣ ଆକଳନ ବିଧି ୨୦୦୬): ଯାହା କରବାକୁ ହେବ ଯେ ଖଣି କାର୍ଯ୍ୟପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ନିଆଯାଇଛି କି ନାହିଁ । ଯଦି ହଁ ତେବେ ଦେଖିବାକୁ ହେବ ଯେ ପରିବେଶ ମଞ୍ଜୁରୀର ନିର୍ଦ୍ଦିଷ୍ଟ କୌଣସି ସର୍ତ୍ତ ଖିଲାପ ହୋଇଛି ନା ନାହିଁ ।	୧. ପରିବେଶ ଜଙ୍ଗଲ ଓ ଜଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ତଦାରଖ ଓ ସର୍ତ୍ତପାଳନ ପାଇଁ ଅନୁଚ୍ଛେଦ-୧୦ ଆବର୍ଜନା ଗଦା ସମ୍ପର୍କୀତ କୌଣସି ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଅଛି କି ନାହିଁ ତାହା ଦେଖିବାକୁ ହେବ । ଅନୁଚ୍ଛେଦ-୨ ଇଆଇଏ ନୋଟିଫିକେସନ୍ ପୂର୍ତ୍ତା ୧(କ) ।
୨. ୧୯୮୧ ରେ ପ୍ରଶାସନ ହୋଇଥିବା ବାୟୁ (ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଆଇନ୍ (ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ଓ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ପତ୍ତି)	ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ଏବଂ ଏହାର ନିକଟସ୍ଥ ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ	ଅନୁଚ୍ଛେଦ-୨୧ (ଯଦି କମ୍ପାନୀ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ପତ୍ତିର ସର୍ତ୍ତକୁ ଖିଲାପ କରିଥିବ) ଅନୁଚ୍ଛେଦ -୩୧ 'କ' ଯାହା ବଳରେ ରାଜ୍ୟ ପ୍ରଦୂଷଣ ନିୟନ୍ତ୍ରଣ ବୋର୍ଡ ଆଇନ ଉଲ୍ଲଙ୍ଘନ ହେତୁ ବିଦ୍ୟୁତ୍ ଓ ଜଳ ଯୋଗାଣ ବନ୍ଦ କରିବା ପାଇଁ ଆଦେଶ ଦେଇପାରିବ
ଫୌଜଦାରୀ ଅପରାଧ ଆଇନ୍ ଅନୁଯାୟୀ ଜନଜୀବନରେ କ୍ଷତି		
୩. ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍ ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁଚ୍ଛେଦ-୧୯ ଯାହା ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିକୁ ବିଚାର ପତ୍ର ନ୍ୟାୟିକ କ୍ଷମତା ପ୍ରଦାନ କରେ ଅନୁଚ୍ଛେଦ-୨୬୮ ଯାହା ଜନଜୀବନରେ କ୍ଷତିର ସଂଜ୍ଞା ନିରୂପଣ କରିଛି ।

କୋଇଲା ଖଣି କାର୍ଯ୍ୟକାରୀ କରିବା ନିମନ୍ତେ ସମ୍ପତ୍ତିର ସର୍ତ୍ତାବଳୀ

- ଖଣି ଆଇନ୍ ଅନୁଯାୟୀ ଆବର୍ଜନା ଗଦାର ସର୍ବାଧିକ ଉଚ୍ଚତାକୁ ନିର୍ଦ୍ଧାରଣ କରାଯିବ । ଆବର୍ଜନା ଗଦାର ସ୍ତର ଗୁଡ଼ିକୁ ଯଥେଷ୍ଟ ଚଉଡ଼ା କରାଯିବ ଏବଂ ଗଦାର ଉଚ୍ଚତା ବା ଗଡ଼ାଣିର ଅନୁପାତ ୨୮୦ ରୁ କମ୍ ରଖାଯିବ ।
- ବୈଜ୍ଞାନିକ କୌଶଳ ଓ ସତର୍କତା ଅବଲମ୍ବନ କରି ରୂପସ୍ତର ଉପରମାଟି ଓ ଆବର୍ଜନାକୁ ନିର୍ଦ୍ଦିଷ୍ଟ ସ୍ଥାନରେ ଅଲଗା ଅଲଗା ଗଦା କରାଯିବ ।
- ଆବର୍ଜନାକୁ ଅଧିକ ସମୟ ଅବଧି ପର୍ଯ୍ୟନ୍ତ ସକ୍ରିୟ ରଖାଯିବ ନାହିଁ । ନିଷ୍କ୍ରିୟ ଆବର୍ଜନା ଗଦାକୁ ଚାଷପୋଯୋଗୀ କରାଯିବ ଏବଂ ଏହା ଉପରେ ବୃକ୍ଷରୋପଣ କରାଯିବ ।

CONDITIONS FROM A ENVIRONMENTAL CLEARANCE LETTER OF A COAL MINE

- Top soil should be stacked properly with proper slope at earmarked site(s), with adequate measures and should be used for reclamation and rehabilitation of mined out areas.
- OB dumps should be stacked at earmarked dump site(s) only and should not be kept active for a long period. The total height of the dumps should not exceed 90 m, each stage should be preferably be of 15 m but should not exceed 20 m. Overall slope of the dump should not exceed 28 degrees. Concurrent back-filling should be started from the fourth year of operation. Monitoring and management of rehabilitated should continue until the vegetation becomes self-sustaining. Compliance status should be submitted to the Ministry of Environment & Forests on a yearly basis.
- Catch drains, and siltation ponds of appropriate size should be constructed to arrest silt and sediment flows from soil, OB and mineral dumps. The water so collected should be utilized for watering the mine area, roads, green belt development, etc.
- Dimension of the retaining wall at the toe of dumps and OB benches within the mine to check run-off and siltation should be based on the rainfall data.
- A green belt of adequate width should be raised by planting the native species around the ML area, coal handling plant, roads, OB dump sites, etc. in consultation with the local DFO/Agriculture Department.

କୋଇଲା ଖଣି ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରର ସର୍ତ୍ତାବଳୀ

- ଉପଯୁକ୍ତ ପଦକ୍ଷେପ ଗ୍ରହଣ କରି ଭୂପୃଷ୍ଠର ଉପରମାଟିକୁ ସଠିକ୍ ଭାବେ ଛିରାକୃତ ସ୍ଥାନରେ ସଠିକ୍ ଉଠାଣି ଗଢ଼ାଣି ଅନୁପାତ ରକ୍ଷାକରି ଗଦା କରାଯିବ ଏବଂ ଉପରମାଟିକୁ ଖଣି ଖନନ କରାଯାଉଥିବା ଅଞ୍ଚଳକୁ ଚାଷଯୋଗ୍ୟ ଓ ପୁନର୍ବସତ ଯୋଗ୍ୟ କରିବା ପାଇଁ ବ୍ୟବହାର କରାଯିବ ।
- ଆବର୍ଜନାକୁ କେବଳ ଛିରାକୃତ ସ୍ଥାନରେ ଗଦା କରାଯିବ ଏବଂ ଏହାକୁ ଅଧିକ ସମୟ ଅବଧି ପର୍ଯ୍ୟନ୍ତ ସକ୍ରିୟ ରଖାଯିବ ନାହିଁ । ଆବର୍ଜନା ଗଦାର ସର୍ବାଧିକ ଉଚ୍ଚତା ୯୦ ମିଟରୁ ଅଧିକ ହେବ ନାହିଁ, ପ୍ରତ୍ୟେକ ସ୍ତରରେ ଉଚ୍ଚତା ୧୫ ମିଟର ହେବା ବାଞ୍ଛନୀୟ କିନ୍ତୁ ଏହା ୨୦ ମିଟରରୁ ଅଧିକ ହେବ ନାହିଁ । ଗୋଟିଏ ପ୍ରାନ୍ତରୁ ଅନ୍ୟ ପ୍ରାନ୍ତ ପର୍ଯ୍ୟନ୍ତ ଉଠାଣି ବା ଗଢ଼ାଣିର ମାତ୍ରା ୨୮ ଡିଗ୍ରୀରୁ ଅଧିକ ହେବ ନାହିଁ । ଖନନ ଆରମ୍ଭ ହେବାର ଚତୁର୍ଥ ବର୍ଷରୁ ତତ୍କାଳିନ ଭୂଗର୍ଭ ପୂରଣ କାର୍ଯ୍ୟ ଆରମ୍ଭ କରାଯିବ । ଉଦ୍ଭିଦ ଜୀବନ ସୁସ୍ଥପୁଷ୍ଟ ହେବା ପର୍ଯ୍ୟନ୍ତ ପୁନଃପ୍ରତିଷ୍ଠିତ ଅଞ୍ଚଳର ତଦାରଖ ଓ ପରିଚାଳନା କରାଯିବ । ସର୍ତ୍ତାବଳୀର ବିବରଣୀ ବର୍ଷିକା ପରିବେଶ ଓ ଜଙ୍ଗଲ ମନ୍ତ୍ରାଳୟରେ ଦାଖଲ କରାଯିବ ।
- ମାଟି, ଆବର୍ଜନା ଏବଂ ଖଣିକ ପଦାର୍ଥ ଗଦାରୁ ଜଳସ୍ରୋତରେ ପଶୁ ଓ ଖାଦ୍ୟ ପ୍ରବାହକୁ ଅବରୋଧ କରିବା ପାଇଁ ଉପଯୁକ୍ତ ଆକାରର କ୍ୟାଚ୍ ଡ୍ରେନ୍ ଓ ପଶୁ ବା ଖାଦ୍ୟ ଟାଙ୍କି (ସିଲ୍ଡେସ୍ ପଣ୍ଡା) ନିର୍ମାଣ କରାଯିବ । ସଂଗୃହୀତ ଜଳକୁ ଖଣି ଅଞ୍ଚଳ ଓ ରାସ୍ତାରେ ସିଞ୍ଚନ ଓ ସବୁଜ ବଳୟ ବିକାଶ ପାଇଁ ବ୍ୟବହାର କରାଯିବ ।
- ବୃକ୍ଷପାତର ତଥ୍ୟ ଆଧାରରେ ଆବର୍ଜନା ଗଦା ଓ ଆବର୍ଜନା ଗଦା ସ୍ତରରେ ପାଦଦେଶରେ ଉପଯୁକ୍ତ ପରିମାପର ଅବରୋଧ କାଢ଼ ନିର୍ମାଣ କରାଯିବ ଯାହା ଜଳସ୍ରୋତ ଓ ମଇଳା ପ୍ରବାହକୁ ଅବରୋଧ କରିବ ।
- ବନଖଣ୍ଡ ଅଧିକାରୀ/କୃଷି ବିଭାଗ ସହ ପରାମର୍ଶ କରି ଖଣିଲିକ୍ ଅଞ୍ଚଳ, କୋଇଲା ପରିଚାଳନା କେନ୍ଦ୍ର ରାସ୍ତା ଓ ଆବର୍ଜନା ଗଦା ଚତୁଃପାର୍ଶ୍ୱରେ ଦେଶୀ ପ୍ରକାରିର ବୃକ୍ଷରୋପଣ କରି ଯଥେଷ୍ଟ ଚଉଡ଼ାର ସବୁଜବଳୟ ସୃଷ୍ଟି କରାଯିବ ।

SCENARIO 17

What is the complaint?

A beach resort has been in operation in a coastal village for the last two years. During a training programme on environmental laws, some residents of the village shared that because of the construction of the resort, they have lost the access to the beach as well as to public wells. There was also a high wall that was built around the resort which has blocked the cool sea breeze; something the villagers enjoyed before the resort was built. They had approached the resort owners several times, asking for access to the beach and public wells, and complained about the sea breeze no longer reaching them. During the training they specifically asked how all these problems can be addressed.



ପରିକଳ୍ପିତ ଘଟଣାବଳୀ ୧୭

ଅଭିଯୋଗର ବିଷୟବସ୍ତୁ

ବିଗତ କିଛି ବର୍ଷ ମଧ୍ୟରେ ଏକ ସମୁଦ୍ର କୂଳ ଗ୍ରାମରେ ସମୁଦ୍ରତଟ ପର୍ଯ୍ୟଟନସ୍ଥଳୀର ସ୍ଥାପନ ହୋଇଛି ପରିବେଶ ଆଇନ ବିଷୟରେ ହୋଇଥିବା ଏକ ତାଲିମ କାର୍ଯ୍ୟକ୍ରମରେ କିଛି ଗ୍ରାମବାସୀ ପର୍ଯ୍ୟଟନ ସ୍ଥଳୀ ହେବା ଯୋଗୁଁ ସେମାନେ ସମୁଦ୍ର କୂଳକୁ ଯାତାୟତ ଓ ଉପକୂଳରେ ଥିବା ସର୍ବସାଧାରଣ କୁଅକୁ ଯିବାର ସୁବିଧା ସୁଯୋଗ ହରାଇଥିବା ସମ୍ପର୍କରେ ଅବଗତ ହେଲେ । ପର୍ଯ୍ୟଟନସ୍ଥଳୀ ନିର୍ମାଣ ହେବା ପୂର୍ବରୁ ଗ୍ରାମବାସୀ ପାଇଥିବା ସମୁଦ୍ରର ଶୀତଳ ପବନ ପର୍ଯ୍ୟଟନସ୍ଥଳୀ ଚାରିପଟେ ନିର୍ମାଣ ହୋଇଥିବା ଉଚ୍ଚ ପାତେରୀ ଯୋଗୁଁ ସେମାନେ ଆଉ ପାଇନଥିବା କଥା କହିଲେ ସେ ଗ୍ରାମବାସୀ ପର୍ଯ୍ୟଟନସ୍ଥଳୀ ମାଲିକଙ୍କୁ ସମୁଦ୍ରକୂଳକୁ ସେମାନଙ୍କୁ ସେମାନଙ୍କର ପ୍ରବେଶ, ସର୍ବସାଧାରଣ କୁଅର ବ୍ୟବହାର ଓ ସମୁଦ୍ର ପବନ ଅବରୋଧ ବିଷୟକ ସମସ୍ୟା ବାବଦରେ ଅନେକ ବାର ଅବଗତ କରିଛନ୍ତି । ତାଲିମ କାର୍ଯ୍ୟକ୍ରମରେ ଏହି ସମସ୍ୟାର ନିର୍ଦ୍ଦିଷ୍ଟ ସମାଧାନ ବିଷୟରେ ସେମାନେ ଜାଣିବାକୁ ଚାହୁଁଛନ୍ତି ।

Is a law being violated?

It can be checked whether the resort owner had obtained an environmental clearance for building the resort, and what conditions and safeguards the owner needs to follow. The provisions of the CRZ Notification, 2011 can also be checked to see if the activities undertaken are permissible in the coastal area. These approvals will also indicate the amount of land area allocated for the resort. The District Collector can be approached to see if s/he can address part of the problem through powers to address 'public nuisance', under the IPC. There are also specific land improvement orders and notices that are state specific that can be referred to for safeguards and remedies.

Law	Corresponding Institutions/ Officials	Section/Clause
Permissions, Rights and Consents related		
1. EIA Notification, 2006 Check whether the activity has obtained the environmental clearance. If yes, check if there is a violation of a specific condition of the environmental clearance letter.	MoEFCC	Section 10 on monitoring and compliance. Section 2 Schedule 1(a)
2. CRZ Notification, 2011: Check whether this is a permissible activity in the concerned CRZ sub-zone(s).	1. SCZMA 2. DLCC (under the District Collector)	Section 3; Section 4 and Section 7
Public nuisance under criminal law		
3. IPC, 1860	District Collector	Section 19 which gives every person empowered by law the powers of a judge Section 268 which defines a public nuisance

ଆଇନ୍ ଭଙ୍ଗାଣ ହୋଇଛି କି ?

ଆମକୁ ଯାଞ୍ଚକରିବାକୁ ହେବ ଯେ ପର୍ଯ୍ୟଟନସ୍ଥଳୀ ନିର୍ମାଣ ପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ ଏବଂ ପର୍ଯ୍ୟଟନସ୍ଥଳୀର ମାଲିକଙ୍କୁ ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା ଓ କେଉଁକେଉଁ ସର୍ତ୍ତାବଳୀ କରାଯାଇଛି ହେବ । କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ ଜୋନ୍‌ର ସର୍ତ୍ତ ଗୁଡ଼ିକୁ ବିଚାରକୁ ନେବାକୁ ହେବ ଏବଂ ପ୍ରକଳ୍ପର କାର୍ଯ୍ୟକଳାପ ଗୁଡ଼ିକ ସି.ଆର୍.ଜେଡ୍ ବିଜ୍ଞପ୍ତି ଅନୁଯାୟୀ ଅନୁମତି ଯୋଗ୍ୟ କାର୍ଯ୍ୟକଳାପ କି ନୁହେଁ ତାହା ପରଖିବାକୁ ହେବ । ଏହା ବିଶେଷଭାବରେ ସମୁଦ୍ର ଉପକୂଳ ଅଞ୍ଚଳ । ପର୍ଯ୍ୟଟନସ୍ଥଳୀ ପାଇଁ କେତେ ଜମି ଆବଶ୍ୟକ କରାଯାଇଛି ତାହା ମଧ୍ୟ ମଞ୍ଜୁରୀ ପତ୍ରରୁ ଜଣାପଡ଼ିବ । ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କୁ ମଧ୍ୟ ସମସ୍ୟା ବାବଦରେ ଅବଗତ କରିବାକୁ ହେବ ଏବଂ ସେ ଭାରତୀୟ ଦଣ୍ଡବିଧାନ ଆଇନ୍ ଅନୁଯାୟୀ ଜନକୀର୍ତ୍ତ ସ୍ଥିତି କରୁଥିବା ସମସ୍ୟାକୁ ପ୍ରତିକାର କରିବା ପାଇଁ କ୍ଷମତାପନ୍ନ । ଭିନ୍ନ ଭିନ୍ନ ରାଜ୍ୟ ଜମି ମରାମତି ବିଷୟକ ଭିନ୍ନ ଭିନ୍ନ ଆଦେଶ ଓ ବିଜ୍ଞପ୍ତି କରିଛନ୍ତି ଓ ସମସ୍ୟାର ପ୍ରତିକାର ଓ ସୁରକ୍ଷା ପ୍ରବନ୍ଧନ ପାଇଁ ସେ ସବୁକୁ ବିଚାରକୁ ନେବାକୁ ହେବ ।

ଆଇନ୍	ସମ୍ପର୍କୀୟ କର୍ତ୍ତୃପକ୍ଷ ଓ ଅଧିକାରୀ	ଧାରା
ଅନୁମତି ଅଧିକାର ଏବଂ ସମ୍ପତ୍ତି ସମ୍ପର୍କୀତ ଆଇନ୍		
୧. ଏନଭାଇଇଇନମେଣ୍ଟ ଇମ୍ପାକ୍ଟ ଆସେସମେଣ୍ଟ ନୋଟିଫିକେସନ୍, ୨୦୦୬ (ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ବିଜ୍ଞପ୍ତି ୨୦୦୬): ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟପାଇଁ ପରିବେଶ ମଞ୍ଜୁରୀ ପାଇଛି କି ନାହିଁ? ଯଦି ହଁ ତେବେ ଏହା ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ ଉଲ୍ଲେଖିତ କୌଣସି ନିର୍ଦ୍ଦିଷ୍ଟ ସର୍ତ୍ତ ଖିଲାପ କରୁଛି କି ?	୧. ପରିବେଶ କଳ୍ପ ଓ କଳବାୟୁ ପରିବର୍ତ୍ତନ ମନ୍ତ୍ରାଳୟ	ତଦାରଖ ଓ ସର୍ତ୍ତାବଳୀ ପାଇଁ ଅନୁକ୍ଳେଦ-୧୦ ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ଆବର୍ଜନା ଗଦା ସମ୍ପର୍କରେ ପରିବେଶ ମଞ୍ଜୁରୀ ପତ୍ରରେ କିଛି ବିଶେଷ ସର୍ତ୍ତ ଅଛି ନା ନାହିଁ ? ଅନୁକ୍ଳେଦ-୨ ଇଆଇଏ ନୋଟିଫିକେସନ୍ ପୃଷ୍ଠା ୧(କ) ।
୨. କୋଷ୍ଠାଳ ରେଗୁଲେସନ୍ ଜୋନ୍ (ସିଆରଜେଡ୍) ନୋଟିଫିକେସନ୍ ୨୦୧୧: ଯାଞ୍ଚ କରିବାକୁ ହେବ ଯେ ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟ ସିଆରଜେଡ୍ ଜୋନ୍‌ରେ ଅନୁମତି ପାଇବା ଯୋଗ୍ୟ କି ନୁହେଁ	୧. ରାଜ୍ୟ ରାଜଧାନୀରେ ଅବସ୍ଥିତ କୋଷ୍ଠାଳ ଜୋନ୍ ମ୍ୟାନେଜମେଣ୍ଟ ଅଥରିଟିଜ୍ (ସିଜେଡ୍‌ଏମଏ) ୨. ଜିଲ୍ଲା କଲେକ୍ଟରଙ୍କର ଅଧିନସ୍ଥ ଜିଲ୍ଲା ସ୍ତରୀୟ କୋଷ୍ଠାଳ କମିଟି (ଡିଏଲସିପି)	ଅନୁକ୍ଳେଦ-୩, ଅନୁକ୍ଳେଦ-୪ ଏବଂ ଅନୁକ୍ଳେଦ-୬
ଫୌଜଦାରୀ ଆଇନରେ ଜନକୀର୍ତ୍ତ ସ୍ଥିତି		
୩. ଭାରତୀୟ ଦଣ୍ଡ ବିଧାନ ଆଇନ୍ ୧୮୬୦	ଜିଲ୍ଲା କଲେକ୍ଟର	ଅନୁକ୍ଳେଦ-୧୯ ଯାହା ପ୍ରତ୍ୟେକ ବ୍ୟକ୍ତିକୁ ବିଚାର ପତିର ନ୍ୟାୟିକ କ୍ଷମତା ପ୍ରଦାନ କରେ । ଅନୁକ୍ଳେଦ-୨୬୮ ଯାହା ଜନକୀର୍ତ୍ତ ସ୍ଥିତିରେ ସଂଜ୍ଞା ନିରୂପଣ କରିଛି

SECTION II

LAWS AND LEGAL CLAUSES

This section highlights some sections of environment, forest and other laws which have been referred to in the handbook. It does not claim to be a comprehensive list of the legal hooks available for users of this handbook, environmental paralegals and community organisers in addressing environmental and social impacts of non-compliance.

1. Environment (Protection) Act (EPA), 1986

It is an umbrella act that extends to water, air and land and the inter-relationship of these with each other and with human beings and other living creatures such as plants, animals and microorganisms, and with property. The act provides for the protection and improvement of the environment and the prevention of hazards to living beings and property.

- o **Sections 3 (1) and 3 (2) (v) empower the Central Government to take any measure to control pollution and protect and improve the quality of the environment.**

Section 3 (1): "Subject to the provisions of this Act, the Central Government shall have powers to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution."

Section 3 (2) (v): "In particular, and without prejudice to the generality of the provisions of the sub-section (i), such measures may include measures with respect to all or any of the following matters, namely:

(v) restriction of areas in which any industries, operations, of processes, or class of industries, operations, or processes shall not be carried out or shall be carried out subject to certain safeguards;"

- o **Section 5 empowers the Central Government to direct closure or stoppage of any activity or cutting off services to it such as electricity, water, etc.**

Section 5: "Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation: For the avoidance of doubts, it is hereby declared that the power to issue directions under this section, includes the power to direct:

- (a) the closure, prohibition or regulation of any industry, operation or process; or
- (b) stoppage or regulation of the supply of electricity or water or any other service."

- o **Section 7 prohibits the discharge or emission of any environmental pollutant in excess of the prescribed standards.**

- o **Section 8 prohibits handling of any harmful substances unless in accordance with the procedure and safeguards specified.**
- o **Section 15 relates to the penalties for the contravention of any provisions of the EPA or Rules, Guidelines or Notifications issued under it. Violation of any of these can lead to imprisonment up to five years or a fine of Rs. 1,00,000. If the violation continues, the fine can extend to Rs. 5,000 for each day the violation has taken place.**

2. Environment Impact Assessment (EIA) Notification, 2006

The Notification lays out the process of seeking prior environmental clearance for any new or existing projects or activities. For existing projects/activities, prior clearance is required for expansion, modernisation, or capacity addition with change in process and/or technology. The Notification elaborates the four stages in the prior environmental clearance process for new projects- Screening, Scoping, Public Consultation and Appraisal.

- o **Requirements for prior environmental clearance for industrial, extractive and infrastructure projects either from a state or national level regulatory agency**

Section 2: "Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule¹ and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range."

The Schedule contains a list of projects categorised as 'A', requiring environmental clearance from the Ministry of Environment, Forest and Climate Change (MoEFCC) and those categorised as 'B', requiring clearance from the State Environment Impact Assessment Authority (SEIAA). For instance, a thermal power plant with a capacity of 500 MW or more falls under category 'A', while a thermal power plant with a capacity of less than 500 MW but more than 50 MW falls under category 'B'. For the complete list of projects, see the Schedule of the Notification.

- o **Cancellation of an environmental clearance based on deliberate non-disclosure of information**

¹For the Schedule, see the EIA Notification, 2006 and its amendments.

Section 8 (vi) provides for cancellation of an environmental clearance granted to a project on the grounds of deliberate non-disclosure of information critical for decision making on the project application.

Section 8 (vi): "Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of the natural justice."

o **The procedure for conduct of public hearing**

Point 6.4 of Appendix IV: "The summary of the public hearing proceedings accurately reflecting all the views shall be recorded by the representatives of the SPCB or UTPCC", has been violated because our views as expressed in the public hearing have not been recorded in the proceedings.

o **Monitoring and compliance of environmental clearances**

Each time an approval under the EIA Notification is granted, it is done so with a set of conditions. These might be related to discharge of effluent, dumping of muck, transportation of raw material, carrying out additional studies, ensuring livelihood related access, controlling air quality, encroachments, etc. There is a specific monitoring and compliance protocol which has been prescribed in Section 10 of the EIA Notification.

Section 10 (i): "It shall be mandatory for the project management to submit half yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year."

Section 10 (ii): "All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the website of the concerned regulatory authority."

The responsibility of post-clearance monitoring for all projects approved by the MoEFCC lies with its ten regional offices. These are located in Bangalore, Bhopal, Bhubaneswar, Chandigarh, Chennai, Dehradun, Lucknow, Nagpur, Ranchi and Shillong. All project authorities are to submit six-monthly compliance reports. All regional offices are to generate six monthly monitoring reports for all projects, as well as carry out site visits. The SEIAAs have the jurisdiction for monitoring the compliance of projects which they have approved [S.O. 637(E) notification dated 28.02.2014].

3. Coastal Regulation Zone (CRZ) Notification, 2011

The Coastal Regulation Zone (CRZ) Notification, 2011 regulates the setting up and expansion of any industry, operations and processes in the coastal stretches and water area up to the territorial limits of the country in an area demarcated as the CRZ Zone.

o **Activities and operations that are prohibited in the CRZ:**

Section 3: "Prohibited activities within CRZ- The following are declared as prohibited activities within the CRZ:

- (i) Setting up of new industries and expansion of existing industries, except^{2*}
- (ii) Manufacture or handling oil storage or disposal of hazardous substance.
- (iii) Setting up and expansion of fish processing units including warehousing except hatchery and natural fish drying in permitted areas.
- (iv) Land reclamation, bunding or disturbing the natural course of seawater, except*
- (v) Setting up and expansion of units and mechanism for disposal of waste and effluents
- (vi) Discharge of untreated waste and effluents from industries, cities or towns and other human settlements. The concerned authorities shall implement schemes for phasing out existing discharge of this nature, if any, within a time period not exceeding two years from the date of issue of the this notification.
- (vii) Dumping of city or town waste including construction debris, industrial solid wastes, fly ash for the purpose of land filling and the like and the concerned authorities shall implement schemes for phasing out existing practice, if any, within a time period not exceeding two years from the date of issue of the this notification.
- (ix) Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities.
- (x) Mining of sand, rocks and other sub-strata materials except those rare minerals that are not available outside the CRZ.
- (xi) Drawl of water and construction thereto within 200 m of HTL, except
 - (a) In the areas which are inhabited by the local communities and only for their use.
 - (b) in the areas between 200m – 500 m zone the drawl of ground water shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries and where no other source of water is available.
- (xii) Construction activities in CRZ I, except*
- (xiii) Dressing or altering the sand dunes, hills, natural features including landscape changes for beautification, recreation and other such purposes.
- (xiv) Facilities required for patrolling and vigilance activities of marine/coastal police stations."

o **Activities and operations that are regulated in the CRZ**

Section 4: "Regulation of permissible activities in CRZ area- The following activities shall be regulated except those prohibited in Para 3 above, -

^{2*}For exceptions refer to the CRZ Notification, 2011 with the latest amendments.

- (i) (a) clearance shall be given for any activity within the CRZ only if it requires waterfront and foreshore facilities.
- (b) for those projects which are listed under this notification and also attract EIA notification 2006, for such projects clearance under EIA notification only shall be required subject to being recommended by the concerned State Union Territory Coastal Zone Management Authority.
- (c) Housing schemes in CRZ as specified in paragraph 8 of this notification;
- (d) Construction involving more than 20,000 sq mts built up area in CRZ II shall be considered for approval in accordance with EIA notification, 2006 and in case of projects less than 20,000 sq mts built up area shall be approved by the concerned State or Union territory Planning authorities in accordance with this notification after obtaining recommendations from the concerned CZMAs and prior recommendations of the concerned CZMA shall be essential for considering the grant of environmental clearance under EIA notification, 2006 or grant of approval by the relevant planning authority.
- (e) MoEF may under a specific or general order specify projects, which require prior public hearing of project-affected people.
- (f) Construction and operation for ports and harbours, jetties, wharves, quays, slipways, ship construction yards, breakwaters, groynes, erosion control measures and salt works.
- (g) construction of road by way of reclamation in Coastal Regulation Zone area shall be only in exceptional cases, to be recommended by the concerned Coastal Zone Management Authority and approved by the MoEFCC, and in case the construction of such roads is passing through mangroves or likely to damage the mangroves, three times the number of mangroves destroyed or cut during the construction process shall be replanted.
- (ii) The following activities shall require clearance from the MoEF, after being recommended by the concerned CZMA, namely:
 - (a) those activities listed under category 'A' in the EIA notification 2006 and permissible under the said notification.
 - (b) Construction activities relating to projects of Department of Atomic Energy or Defence requirements for which foreshore facilities are essential such as, slipways, jetties, wharves, quays; except for classified operational component of defence projects in terms of EIA notification, 2006. Residential buildings, office buildings, hospital complexes, workshops of strategic and defence projects in terms of EIA notification, 2006;
 - (c) Construction, operation of lighthouses;
 - (d) Laying of pipelines, conveying systems, transmission line;
 - (e) Exploration and extraction of oil and natural gas and all associated activities and facilities thereto;

- (f) Foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water and outfall for discharge of treated waste water or cooling water from thermal power plants. MoEF may specify for category of projects such as at (f), (g) and (h) of para 4;
- (g) Mining of rare minerals as listed by the Department of Atomic Energy;
- (h) Facilities for generating power by non-conventional energy resources, desalination plants and weather radars;
- (i) Demolition and reconstruction of (a) buildings of archaeological and historical importance, (ii) heritage buildings, and buildings under public use which means buildings such as for the purpose of worship, education, medical care and cultural activities."

Section 8 (i): "The development and construction activities in different categories of CRZ shall be regulated by the concerned CZMA in accordance with the following norms."³

o **Approval procedure for CRZ clearance**

Section 4.2 (ii): "The concerned CZMA shall examine the above documents in accordance with the approved CZMP and in compliance with CRZ notification and make recommendations within a period of sixty days from date of receipt of complete application,-

- (a) MoEF or State Environmental Impact Assessment Authority (hereinafter referred to as the SEIAA) as the case may be for the project attracting EIA notification, 2006;
- (b) MoEF for the projects not covered in the EIA notification, 2006 but attracting para 4(ii) of the CRZ notification;
- (c) SEIAA, for the projects specified under paragraph 4 (i) [except with respect to item (d) thereof relating to building projects with less than 20,000 sq. mts of built-up area] and for the projects not attracting EIA notification, 2006."

o **Powers of State and National Coastal Zone Management Authorities (CZMAs) to take action against violations**

Section 6 (a): "For the purpose of implementation and enforcement of the provisions of this notification and compliance with conditions stipulated thereunder, the powers either original or delegated are available under Environment (Protection) Act, 1986 with the MoEF, State Government or Union Territory Administration NCZMA and SCZMAs."

o **Constitution and role of District Level Coastal Committees (DLCCs)**

Section 6 (c): "the State Government or the Union territory CZMAs shall primarily be responsible for enforcing and monitoring of this notification and to assist in the task, the State Government and Union territory shall constitute District level Committees under the Chairmanship of the District Magistrate concerned containing at least three representatives of local traditional coastal communities including from fisherfolk."

o **Identification and management of Critically Vulnerable Coastal Areas (CVCA)**

³For regulations refer to the notification

Section 7 (v): "Areas requiring special consideration for the purpose of protecting the critical coastal environment and difficulties faced by local communities...(B) Critically Vulnerable Coastal Areas (CVCA) such as Sundarbans region of West Bengal and other ecologically sensitive areas identified as under Environment (Protection) Act, 1986 and managed with the involvement of coastal communities including fisherfolk." **Section 8 (i) (V) (4) (b)** identifies the areas which will be notified as CVCA "...through a process of consultation with local fisher and other communities inhabiting the area and depend on its resources for their livelihood..."

- o **Section 8 (i)** is concerned with the regulation of activities to be carried out in different categories of the CRZ.

4. Wildlife Protection Act (WLPA), 1972

The Wildlife Protection Act (WLPA), 1972 is an Act to provide for the protection of wild animals, birds and plants. It provides for the declaration of national parks and sanctuaries, prohibits hunting and harm of wild animals and uprooting of specified plants.

- o **Prohibition of any destructive activity in a sanctuary or a national park**

Section 29: "Destruction, etc., in a sanctuary prohibited without a permit.- No person shall destroy, exploit or remove any wildlife including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wildlife Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the Board that such removal of wildlife from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wildlife therein, authorises the issue of such permit:

Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bonafide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose."

- o **Ban on use of injurious substances within an area protected under the WLPA**

Section 32: "No person shall use, in a sanctuary, chemicals, explosives or any other substances which may cause injury to or endanger, any wild life in such sanctuary."

- o **Restrictions on destruction, exploitation and removal of any wildlife from the National Park. This can be done with permission of the Chief Wildlife Warden.**

Section 35 (6): "No person shall destroy, exploit or remove any wildlife including forest produce from a National Park or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the National Park, except under and in accordance with a permit granted by the Chief Wildlife Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the National Board that such removal of wildlife from the National Park or the change in the flow of water into or outside the National Park is necessary

for the improvement and better management of wildlife therein, authorises the issue of such permit:

Provided that where the forest produce is removed from a National Park, the same may be used for meeting the personal bona fide needs of the people living in and around the National Park and shall not be used for any commercial purpose."

- o **Powers of Chief Wildlife Warden or any forest officer or police officer to take action against any person for committing an offence under the Act**

Section 50 (3) (1): "...the Director of Preservation of Wildlife in the state or Chief Wildlife Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector, may, if he has reasonable grounds for believing that any person has committed an offence against this Act,- to stop and detain any person, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him."

5. Forest Conservation Act (FCA), 1980

The Forest Conservation Act (FCA), 1980 regulates the diversion of forest land for non-forest purposes. The Act mandates that the State Government cannot de-reserve the forest land or allow felling of trees without the prior permission of the Central Government, i.e. MoEFCC. A detailed process for this has been laid out under the Act and its corresponding Rules [1981 (suppressed), 2003 and 2014 (amendment)]. Through this Act and various guidelines, penalties were put in place for committing offences (e.g., felling of trees, setting/kindling a fire in a forest, stripping the bark off a tree) in reserved and protected forests.

- o **User agencies and State Governments to seek permission from the Central Government before de-reserving any reserved forest land, felling of trees or diverting any forest land for non-forest use**

Section 2: "Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

- that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- that any forest land or any portion thereof may be used for any non-forest purpose;
- that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;
- that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.

Explanation - For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;
- (b) any purpose other than reforestation; but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes."

The Act also has **penalties for any department or authority or head of the department or person in charge of the authority, at the time when the process of diversion of forest land is not complied with** (or the land is diverted without the due permission of the Central Government). The penalty includes an imprisonment extending up to 15 days.

- o **No diversion of forest land till the process of recognition of forest rights is complete**

MoEF Circular dated 3.8.2009: A circular from the MoEF dated 3.8.2009 [F No. 11-9/ 1998-FC (pt)] directed all State and Union Territory Governments to complete the procedure of recognition of forest rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006) prior to allowing for diversion of forest land for non-forest use under the FCA. The circular requires the State Governments to provide evidence of initiating and completing the process of settlements of while sending proposals for diversion of forest land. The circular also refers to the requirement of the consent of the Gram Sabhas (village assemblies) prior to any permission of diversion.

The MoEF through a circular in 2013 did away with requirement of the consent of Gram Sabha for linear projects (projects that need a linear diversion of forest land, e.g., construction of roads, canals, laying of pipelines/optical fibres and transmission lines, etc.). Since 2015, the work on linear projects including tree felling can be initiated after the first level approval for forest diversion from the MoEFCC, subject to compliance of all conditions related to compensation including identification of land, payments towards diversion, etc (F. No. 11-30fl 2014-EC Utt. dated 28.8.2015).

6. Water (Control and Prevention of Pollution) Act, 1974

The main purpose of this Act is to prevent and control water pollution. The Act also aims to maintain the quality of water and water bodies. The Act provides for setting up of standards for discharge of effluents and sewage in the water bodies. It is to be enacted by the Pollution Control Boards (PCBs) to ensure that no water body (river, lake, well, creek, etc.) is contaminated by industrial effluents or sewage.

- o **Prohibition of discharge of poisonous, noxious or polluting matter beyond permissible standards**

Section 24: "PROHIBITION ON USE OF STREAM OR WELL FOR DISPOSAL OF POLLUTING MATTER, ETC.

- (1) Subject to the provisions of this section --
 - (a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or
 - (b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.
- (2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done any of the following acts, namely;--
 - (a) constructing, improving a maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;
 - (b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;
 - (c) putting into an stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;
 - (d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.
- (3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any conditions so specified may by a like notification and be altered, varied or amended."

- o **Requirement of prior consent to establish an industry or operation**

Section 25 (1): "Subject to the provisions of this section, no person shall, without the previous consent of the State Board,--

- (a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or
- (b) bring into use any new or altered outlets for the discharge of sewage; or
- (c) begin to make any new discharge of sewage;

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.”

Section 25 (4): “The State Board may --

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being--

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system or extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.”

Section 27 (1): “A State Board shall not grant its consent under sub-section (4) of section 25 for the establishment of any industry, operation or process, or treatment and disposal system or extension or addition thereto, or to the bringing into use of a new or altered outlet unless the industry, operation or process, or treatment and disposal system or extension or addition thereto, or the outlet is so established as to comply with an conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.”

o **Powers of the State Pollution Control Boards (SPCBs) to control and regulate water pollution**

Section 20 (1): “For the purpose of enabling a State Board to perform the function conferred on it by or under this Act, the State Board or any officer empowered by it in that behalf, may make surveys of any area and gauge and keep records of the flow or volume and other characteristics of an stream or well in such area, and may take steps for the measurement and recording of the rainfall in such area or any part thereof and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and carry out stream surveys and may take such other steps as may be necessary in order to obtain any information required for the purposes aforesaid.”

Section 20 (2): “A State Board may give directions requiring any person who in its opinion is abstracting water from any such stream or well in the area in quantities which are substantial in relation to the flow or volume of that stream or well or is discharging

sewage or trade effluent into any such stream or well, to give such information as to the abstraction or the discharge at such times and in such form as may be specified in the directions.”

Section 20 (3): “Without prejudice to the provisions of sub-section (2), a State Board may, with a view to preventing or controlling pollution of water, give directions requiring any person in charge of any establishment where any industry, operation or process, or treatment and disposal system is carried on, to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment and such other particulars as may be prescribed.”

Section 21 (1): “A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well.”

o **Powers of the SPCBs to take action**

Section 23 (1): “Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place--

(a) the purpose of performing any of the functions of the Board entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder of an notice, order, direction or authorisation served, made, given, or granted under this Act is being or has been complied with;

(c) for the purpose of examining any plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such plant, record, register, document or other material object, if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder:

Provided that the right to enter under this sub-section for the inspection of a well shall be exercised only at reasonable hours in a case where such well is situated in any premises used for residential purposes and the water thereof is used exclusively for domestic purposes.

(2) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to an search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code, or, as the case may be, under the corresponding provisions of the said law.

Explanation - For the purposes of this section, “place” includes vessel.”

Section 32: “EMERGENCY MEASURES IN CASE OF POLLUTION OF STREAM OR WELL

(1) Where it appears to the State Board that any poisonous, noxious or polluting matter is present in any stream or well or on land by reason of the discharge of such matter in such stream or well or on such land or has entered into that stream or well due to any accident or other unforeseen act or event, and if the Board is of opinion that it is necessary or expedient to take immediate action, it may for reasons to be recorded in writing, carry out such operations as it may consider necessary for all or any of the following purposes, that is to say --

- (a) removing that matter from the stream or well or on land and disposing it of in such manner as the Board considers appropriate;
- (b) remedying or mitigating any pollution caused by its presence in the stream or well;
- (c) issuing orders immediately restraining or prohibiting the persons concerned from discharging any poisonous, noxious or polluting matter [into the stream or well or on land] or from making insanitary use of the stream or well.

(2) The power conferred by sub-section (1) does not include the power to construct any works other than works of a temporary character which are removed on or before the completion of the operations."

Section 25 (5): "Where, without the consent of the State Board, any industry operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge."

Section 27 (2): "A State Board may from time to time review --

- (a) any condition imposed under section 25 or section 26 and may serve on the person to whom a consent under section 25 or section 26 is granted a notice making any reasonable variation of or revoking any such condition.
- (b) the refusal of any consent referred to in sub-section (1) of section 25 or section 26 or the grant of such consent without any condition, and may make such orders as it deemed fit."

Section 30: "POWER OF STATE BOARD TO CARRY OUT CERTAIN WORKS

(1) Where under this Act, any conditions have been imposed on any person while granting consent under section 25 or section 26 and such conditions require such person to execute any work in connection therewith and such work has not been executed within such time as may be specified in this behalf, the State Board may serve on the person concerned a notice requiring him within such time (not being less than thirty days) as may be specified in the notice to execute the work specified therein]

- (2) If the person concerned fails to execute the work as required in the notice referred to in sub-section (1), then, after the expiration of the time specified in the said notice, the State Board may itself execute or cause to be executed such work.
- (3) All expenses incurred by the State Board for the execution of the aforesaid work, together with interest, at such rate as the State Government may, by order, fix, from the date when a demand for the expenses is made until it is paid, may be recovered by that Board from the person concerned, as arrears of land revenue, or of public demand."

Section 31 (1): "If at any place where any industry, operation or process, or any treatment and disposal system or any extension or addition thereto is being carried on, due to accident or other unforeseen act or event, any poisonous, noxious or polluting matters is being discharged, or is likely to be discharged into a stream or well or sewer or on land and, as a result of such discharge, the water in any stream or well is being polluted, or is likely to be polluted, then the person incharge of such place shall forthwith intimate the occurrence of such accident, act or event to the State Board and such other authorities or agencies as may be prescribed."

Section 33: "POWER OF BOARD TO MAKE APPLICATION TO COURTS FOR RESTRAINING APPREHENDED POLLUTION OF WATER IN STREAMS OF WELLS.

- (1) Where it is apprehended by a Board that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in any sewer, or on any land, or otherwise, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing.
- (3) Where under sub-section (2) the court makes an order restraining any person from polluting the water in any stream or well, it may in that order-
 - (i) direct the person who is likely to cause or has caused the pollution of the water in the stream or well, to desist from taking such action as is likely to cause pollution or, as the case may be, to remove such stream or well, such matter, and
 - (ii) authorise the Board, if the direction under clause (i) (being a direction for the removal of any matter from such stream or well) is not complied with by the person to whom such direction is issued, to undertake the removal and disposal of the matter in such manner as may be specified by the court.
- (4) All expenses incurred by the Board in removing any matter in pursuance of the authorisation under clause (ii) of sub-section (3) or in the disposal of any such matter may be defrayed out of any money obtained by the Board from such disposal and any balance outstanding shall be recoverable from the person concerned as arrears of land revenue or of public demand."

o **Powers of the SPCBs to issue notices, penalties and fines**

Section 33 A: "Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer, authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation- For the avoidance of doubts it is hereby declared that the power to issue directions under this section includes the power to direct-

- (a) the closure, prohibition or regulation of any industry, operation or process; or
- (b) the stoppage or regulation of supply of electricity, water or any other service."

Section 42: "PENALTY FOR CERTAIN ACTS

(1) Whoever --

- (a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or
- (b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or
- (c) damages any works or property belonging to the Board, or
- (d) fails to furnish to any officer or other employees of the Board any information required by him for the purpose of this Act, or
- (e) fails to intimate the occurrence of an accident or other unforeseen act or even under section 31 to the Board and other authorities or agencies as required by that section, or
- (f) in giving any information which he is required to give under this Act, knowingly or wilfully makes a statement which is false in any material particular, or
- (g) for the purpose of obtaining any consent under section 25 or section 26, knowingly or willfully makes a statement which is false in any material particular shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both.

(2) Where for the grant of a consent in pursuance of the provisions of section 25 or section 26 the use of a meter or gauge or other measure or monitoring device is required and such device is used for the purposes of those provision, any person who knowingly or willfully alters or interferes with that device so as to prevent it from monitoring or measuring correctly shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both."

Section 44: "PENALTY FOR CONTRAVENTION OF SECTION 25 OR SECTION 26

Whoever contravenes the provision of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than 1 year & 6 months but which may extend to six years and with fine."

Section 45: "ENHANCED PENALTY AFTER PREVIOUS CONVICTION

If any person who has been convicted of any offence under section 24 or 25 or section 26 is again found guilty of an offence involving a contravention of the same provision, he shall, on the second and on every subsequent conviction, be punishable with imprisonment for a term which shall not be less than one and half years but which may extend to seven years and with fine:

Provided that for the purpose of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished."

Section 45 A: "Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both and in the case of a continuing contravention or failure, with an additional fine which may extend to five thousand rupees for every day during which such contravention or failure continues after conviction for the first such contravention or failure."

Section 19 (3): "The State Government may, by notification in the Official Gazette-

- (a) alter any water pollution prevention and control area whether by way of extension or reduction; or
- (b) define a new water pollution, prevention and control area in which may be merged one or more water pollution, prevention and control areas, or any part or parts thereof."

Critically Polluted Areas

The Central Pollution Control Board (CPCB), based on a Comprehensive Environmental Pollution Index (CEPI) and through a nationwide environmental assessment of Industrial Clusters, regularly identifies areas as being critically polluted and publishes its CEPI index. As per the 2009 CEPI, there were 43 Industrial Clusters that had an index greater than 70, on a scale of 0 to 100. Each of the identified areas were to prepare an action plan to improve the environmental quality.

The CEPI was revised in 2016 to include only those factors which can be measured precisely and it eliminated subjective factors like impact on human health and environmental degradation.

7. Air (Control and Prevention of Pollution) Act, 1981

The objective of the Air Act, 1981 is to prevent, control and reduce air pollution, including noise pollution. The Act has the provision to declare air pollution control areas, in which industrial plants cannot be set up without due permissions. It also provides for putting in place air pollution emission standards for industries.

- o **Requirement of compliance with the consent from the SPCB**

Section 21 (1): "Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area:

Provided that a person operating any industrial plant in any air pollution control area, immediately before the commencement of section 9 of the Air (Prevention and Control of Pollution) Amendment Act, 1987, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent within the said period of three months, till the disposal of such application."

Section 22: "Persons carrying on industry, etc., and to allow emission of air pollutants in excess of the standard laid down by State Board.

No person operating any industrial plant, in any air pollution control area shall discharge or cause or permit to be discharged the emission of any air pollutant in excess of the standards laid down by the State Board under clause (g) of sub-section (1) of section 17."

Section 21 (5): "Every person to whom consent has been granted by the State Board under sub-section (4), shall comply with the following conditions, namely -

- (i) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;
- (ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;
- (iii) the control equipment referred to in clause (i) or clause (ii) shall be kept at all times in good running condition;
- (iv) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises; .and
- (v) such other conditions as the State Board, may specify in this behalf,
- (vi) the conditions referred to in clauses (i), (ii) and (iv) shall be complied with within such period as the State Board may specify in this behalf-

Provided that in the case of a person operating any industrial plant in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months:

Provided further that-

- (a) after the installation of any control equipment in accordance with the specifications under clause (i), or
- (b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause (ii), or
- (c) after the erection or re-erection of any chimney under clause (iv), no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-created except with the previous approval of the State Board."

o **Powers of the SPCBs to control and regulate air pollution**

Section 21 (6): "If due to any technological improvement or otherwise the State Board is of opinion that all or any of the conditions referred to in sub-section (5) require or requires variation (including the change of any control equipment, either in whole or in part), the State Board shall, after giving the person to whom consent has been granted an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions as so varied."

Section 25: "For the purposes of carrying out the functions entrusted to it, the State Board or any officer empowered by it in that behalf may call for any information (including information regarding the types of air pollutants emitted into the atmosphere and the level of the emission of such air pollutants) from the occupier or any other person carrying on any industry or operating any control equipment or industrial plant and for the purpose of verifying the correctness of such information, the State Board or such officer shall have the right to inspect the premises where such industry, control equipment or industrial plant is being carried on or operated."

Section 26: "Power to take samples of air or emission and procedure to be followed in connection therewith.

- (1) A State Board or any officer empowered by it in this behalf shall have power to take, for the purpose of analysis, samples of air or emission from any chimney, flue or duct or any other outlet in such manner as may be prescribed.
- (2) The result of any analysis of a sample of emission taken under subsection (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3) and (4) are complied with.
- (3) Subject to the provisions of sub-section (4), when a sample of emission is taken for analysis under sub-section (1), the person taking the sample shall-
 - (a) serve on the occupier or his agent, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;
 - (b) in the presence of the occupier or his agent, collect a sample of emission for analysis;
 - (c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;
 - (d) send, without delay, the container to the laboratory established or recognised by the State Board under section 17 or, if a request in that behalf is made by the occupier or his agent when the notice is served on him under clause (a), to the laboratory established or specified under sub-section (1) of section 28.
- (4) When a sample of emission is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3), then,-

- (a) in a case where the occupier or his agent willfully absents himself, the person taking the sample shall collect the sample of emission for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and
- (b) in a case where the occupier or his agent is present at the time of taking the sample but refuses to sign the marked and sealed container or containers of the sample of emission as required under clause (c) of subsection (3), the marked and sealed container or containers shall be signed by the person taking the sample, and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or specified under sub-section (7) of section 28 and such person shall inform the Government analyst appointed under sub-section (1) of section 29, in writing, about the wilful absence of the occupier or his agent, or, as the case may be, his refusal to sign the container or containers."

o **Powers of the SPCBs to take action**

Section 24 (1): "Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place-

- (a) for the purpose of performing any of the functions of the State Board entrusted to him;
- (b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorization served, made, given or granted under this Act is being or had been complied with;
- (c) for the purpose of examining and testing any control equipment, industrial plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made has been or is being or is about to be committed and for seizing any such control equipment, industrial plant, record, register, document or other material object of he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder."

Section 23 (1): "Where in any area the emission of any air pollutant into the atmosphere in excess of the standards laid down by the State Board occurs or is apprehended to occur due to accident or other unforeseen act or event, the person in charge of the premises from where which emission occurs or is apprehended to occur shall forthwith intimate the fact of such occurrence or the apprehension of such occurrence to the State Board and to such authorities or agencies as may be prescribed."

Section 23 (2): "On receipt of information with respect to the fact or the apprehension of any occurrence of the nature referred to in sub-section (1), whether through intimation under that sub-section or otherwise, the State Board and the authorities or agencies shall, as early as practicable, cause such remedial measure to be taken as are necessary to mitigate the emission of such air pollutants."

o **Powers of the SPCBs to issue notices/directions/penalties**

Section 21 (4): "Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order in writing, and for reasons to be recorded in the order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse consent:

Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:

Provided further that before cancelling a consent or refusing a further consent under the first provision, a reasonable opportunity of being heard shall be given to the person concerned."

Section 22 A: "Power of Board to make application to court for restraining person from causing air pollution.

- (1) Where it is apprehended by a Board that emission of any air pollutant, in excess of the standards laid down by the State Board under clause (g) of sub-section (1) of section 17, is likely to occur by reason of any person operating an industrial plant or otherwise in any air pollution control area, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class for restraining such person from emitting such air pollutant.
- (2) On receipt of the application under sub-section (1), the court may make such order as it deems fit.
- (3) Where under sub-section (2), the court makes an order restraining any person from discharging or causing or permitting to be discharged the emission of any air pollutant, it may, in that order,-
 - (a) direct such person to desist from taking such action as is likely to cause emission;
 - (b) authorise the Board, if the direction under clause (a) is not complied with by the person to whom such direction is issued, to implement the direction in such manner as may be specified by the court.
- (4) All expenses incurred by the Board in implementing the sections of the court under clause (b) of sub-section (3) shall be recoverable from the person concerned as arrears of land revenue or of public demand."

Section 37 (1) and (2): "Failure to comply with the provisions of section 21 or section 22 or with the directions issued under section 31A.

- (1) whoever fails to comply with the provisions of section 21 or section 22 or directions issued under section 31 A, shall, in respect of each such failure, be punishable with imprisonment for a terms which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

- (2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.”

Section 38: “Penalties for certain acts.

Whoever-

- (a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or
- (b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or
- (c) damages any works or property belonging to the Board, or
- (d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purpose of this Act, or
- (e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (1) of section 23, or
- (f) in giving any information which he is required to give under this Act, makes a statement which is false in any material particular, or
- (g) for the purpose of obtaining any consent under section 21, makes a statement which is false in any material particular shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both.”

Section 39: “Penalty for contravention of provisions of the Act.

Whoever contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing contravention, with an additional fine which may extend to five thousand, rupees for every day during which such contravention continues after conviction for the first such contravention.”

Section 31 A: “Power to give directions

Notwithstanding anything contained in any other law, subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.-For the avoidance of doubts, it is hereby declared that the power to issue directions under this section, includes the power to direct-

- (a) the closure, prohibition or regulation of any industry, operation or
- (b) the stoppage or regulation of supply of electricity, water or any other service.”

8. The Indian Penal Code, 1860

19. “Judge”.—The word “Judge” denotes not only every person who is officially designated as a Judge, but also every person,— who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment. Illustrations

(a) A Collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge.

268. Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

9. Hazardous Material and Other Wastes (Management and Trans-boundary Movement) Rules, 2016

Hazardous Material and Other Wastes Rules were notified to set procedures for safe handling, generation, treatment, processing, treatment, packaging, storage, transportation, use, collection, reprocessing, conversion, sale and disposal of material that poses potential threat to public health and environment. The Rules set the duties of various authorities such as the MoEFCC, CPCB, SPCBs, Port Authority, etc., with wider responsibilities falling with the SPCBs.

o **Storage, transportation and disposal**

Section 4 (3): “The hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorised actual user or shall be disposed of in an authorised disposal facility.”

Section 4 (4): “The hazardous and other wastes shall be transported from an occupier’s establishment to an authorised actual user or to an authorised disposal facility in accordance with the provisions of these rules.”

Section 6 (1): “Every occupier of the facility who is engaged in handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilisation, offering for sale, transfer or disposal of the hazardous and other wastes shall be required to make an application in Form 1 to the State Pollution Control Board and obtain an authorisation from the State Pollution Control Board within a period of sixty days from the date of publication of these rules.”

Section 6 (6): "The State Pollution Control Board shall maintain a register containing particulars of the conditions imposed under these rules for management of hazardous and other wastes and it shall be open for inspection during office hours to any interested or affected person."

Section 8 (1): "Storage of hazardous and other wastes.-

The occupiers of facilities may store the hazardous and other wastes for a period not exceeding ninety days and shall maintain a record of sale, transfer, storage, recycling, recovery, pre-processing, co-processing and utilisation of such wastes and make these records available for inspection: Provided that the State Pollution Control Board may extend the said period of ninety days in following cases, namely:-

(i) small generators (up to ten tonnes per annum) up to one hundred and eighty days of their annual capacity; (ii) actual users and disposal facility operators up to one hundred and eighty days of their annual capacity, (iii) occupiers who do not have access to any treatment, storage, disposal facility in the concerned State; or (iv) the waste which needs to be specifically stored for development of a process for its recycling, recovery, pre-processing, co-processing or utilisation; (v) in any other case, on justifiable grounds up to one hundred and eighty days."

o **Establishment and management of a Treatment, Storage and Disposal Facility (TSD) Site**

Section 16 (2): "The operator of common facility or occupier of a captive facility, shall design and set up the treatment, storage and disposal facility as per technical guidelines issued by the Central Pollution Control Board in this regard from time to time and shall obtain approval from the State Pollution Control Board for design and layout in this regard."

Section 16 (4): "The operator of common facility or occupier of a captive facility shall be responsible for safe and environmentally sound operation of the facility and its closure and post closure phase, as per guidelines or standard operating procedures issued by the Central Pollution Control Board from time to time."

o **Power of SPCB to monitor and take action**

Schedule VII of the Hazardous Material and Other Wastes (Management and Transboundary Movement) Rules, 2016 makes the SPCB responsible for monitoring of compliance with various provisions and conditions of authorisations under the Rules, and for taking action against violations of the Rules.

Section 7: "Power to suspend or cancel an authorisation

(1) The State Pollution Control Board, may, if in its opinion the holder of the authorisation has failed to comply with any of the conditions of the authorisation or with any provisions of the Act or these rules and after giving him a reasonable opportunity of being heard and after recording reasons thereof in writing cancel or suspend the authorisation issued under rule 6 for such period as it considers necessary in the public interest.

(2) Upon suspension or cancellation of the authorisation, the State Pollution Control Board may give directions to the person whose authorisation has been suspended or cancelled

for the safe storage and management of the hazardous and other wastes, and such occupier shall comply with such directions."

10. Solid Waste Management Rules, 2016

Solid Waste Management Rules, 2016 applies to every urban local body, outgrowths in urban agglomerations, census towns, notified areas, notified industrial townships, areas under the control of Indian Railways, airports, airbases, ports and harbours, defence establishments, Special Economic Zones, State and Central Government organisations, places of pilgrims, religious and historical importance, every domestic, institutional, commercial and any other non residential solid waste generator situated in the areas [except industrial waste, hazardous waste, hazardous chemicals, bio medical wastes, e-waste, lead acid batteries and radio-active waste which are covered under separate rules framed under the Environment (Protection) Act, 1986].

o **Duties and responsibilities of local authorities and village Panchayats**

Section 15 (v): "The local authorities and Panchayats shall facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Urban Development from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised processing to minimize transportation cost and environmental impacts such as

- a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;
- b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;"

Section 15 (w): "The local authorities and Panchayats shall undertake their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;"

o **Requirement of authorisation before handling waste**

Section 15 (y): "The local authorities and Panchayats shall make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;"

o **Implementation of the Rules**

Section 16: "Duties of State Pollution Control Board or Pollution Control Committee.- (1) The State Pollution Control Board or Pollution Control Committee shall,-

- (a) enforce these rules in their State through local bodies in their respective jurisdiction and review implementation of these rules at least twice a year in close coordination

with concerned Directorate of Municipal Administration or Secretary-in-charge of State Urban Development Department;

- (b) monitor environmental standards and adherence to conditions as specified under the Schedule I and Schedule II for waste processing and disposal sites;
- (c) examine the proposal for authorisation and make such inquiries as deemed fit, after the receipt of the application for the same in Form I from the local body or any other agency authorised by the local body.”
- (g) suspend or cancel the authorization issued under clause (a) any time, if the local body or operator of the facility fails to operate the facility as per the conditions stipulated: provided that no such authorization shall be suspended or cancelled without giving notice to the local body or operator, as the case may be;”

Section 11 (d): “The Secretary, Urban Development Department in the State or Union territory through the Commissioner or Director of Municipal Administration or Director of local bodies shall ensure implementation of provisions of these rules by all local authorities;”

- o **Maintenance of the solid waste processing and treatment facility**

Section 19: “Criteria for Duties regarding setting-up solid waste processing and treatment facility.

- (1) The department in- charge of the allocation of land assignment shall be responsible for providing suitable land for setting up of the solid waste processing and treatment facilities and notify such sites by the State Government or Union territory Administration.
- (2) The operator of the facility shall design and set up the facility as per the technical guidelines issued by the Central Pollution Control Board in this regard from time to time and the manual on solid waste management prepared by the Ministry of Urban Development.
- (3) The operator of the facility shall obtain necessary approvals from the State Pollution Control Board or Pollution Control Committee.
- (4) The State Pollution Control Board or Pollution Control Committee shall monitor the environment standards of the operation of the solid waste processing and treatment facilities.
- (5) The operator of the facility shall be responsible for the safe and environmentally sound operations of the solid waste processing and or treatment facilities as per the guidelines issued by the Central Pollution Control Board from time to time and the Manual on Municipal Solid Waste Management published by the Ministry of Urban Development and updated from time to time.
- (6) The operator of the solid waste processing and treatment facility shall submit annual report in Form III each year by 30th April to the State Pollution Control Board or Pollution Committee and concerned local body.”

11. Panchayat Acts

This section explores and explains some clauses of state level Panchayat Acts, which could be exercised in remedying environmental and social impacts caused due to legal non-compliance. **For exact clauses of these Acts in the local languages, it would be important to read the specific Panchayat laws.**

11.1 Gujarat Panchayats Act, 1993

- **Section 104 (1)**, makes it mandatory to obtain permission from the Gram Panchayat for erecting or re-erecting any building within the limits of a village.
- **Section 104 (3)** states that commencement of work for erection or re-erection of a building cannot be carried out after the expiry of one year from obtaining permission from the Gram Panchayat to carry out such a task.
- **Section 104 (4)** provides for levying a fine by the Panchayat on a person who carries out erection or re-erection of any building without the Panchayat's permission.
- **Section 104 (5)** grants powers to the Panchayats to order stopping of work of any such construction or demolition of any such structures (if constructed).
- **Section 105 (1)** grants powers to the Gram Panchayat to levy a fine on any person who, without its permission, uses public spaces (streets, open sites, etc.)and common grazing land in an unauthorised manner.
- **Section 105 (2)** authorises the Panchayat to remove (after serving a notice of a prescribed period) any such construction or encroachment of an open site (not private property). However, if the land belongs to the State, permission from the Collector needs to be obtained before carrying out removal/demolition.
- **Section 105 (5)** grants powers to the Gram Panchayat to levy a fine on any person who removes earth or sand from or encroaches on an open site.
- **Section 105 (7)** states that if the Panchayat is unable to remove the unauthorised activity, it will inform the Taluka Development Officer who will then take action on behalf of the Panchayat.

11.2. Karnataka Panchayat Raj Act, 1993

- **Section 64 (1)** makes it mandatory to obtain permission from the Gram Panchayat for erecting or re-erecting any building within the limits of a village,.
- **Section 68** states that no place in the jurisdiction of a Gram Panchayat can be used as a hotel, restaurant, eating house, coffee house, sweetmeat shop, bakery, boarding house/ lodging house/dharamshala or for manufacturing rice or aerated water manufacturing plant without a license for the same from the Grama Panchayat.
- **Section 64 (3)** grants powers to the Panchayats to order (through a notice) stopping of any construction work that has commenced without its permission. The Panchayat may also exercise such powers in the case of non-compliance with any condition imposed by it and demand the alteration or demolition of certain constructed structures..

- **Section 64 (4)** states that if a notice by the Panchayat is not complied with in the specified period, the Panchayat may take necessary action to ensure completion of the mandated act.
- **Section 66** restricts (a) construction or establishment of any factory, workshop or workplace with the use of any kind of power (steam, water or electrical) without the permission of the Panchayat (b) installation of any machinery or manufacturing plant (except those exempted) driven by any power in any premises without the permission of the Panchayat.
- **Section 72 (1)** states that the Gram Panchayat has the powers to levy a fine on any encroachment, obstruction or deposition (of any box, bale, package or merchandise) in any public street or open site (not private property).
- **Section 72 (2)** authorises the Gram Panchayat to remove any obstruction or encroachment referred to in the previous sub-section (1).
- **Section 72 (3)** states that the Gram Panchayat has powers to levy a fine on unauthorised removal of earth or sand, (other than sand used for domestic purposes by residents of the Panchayat area).
- **Section 107** grants powers to the Gram Panchayat to discontinue (by written notice) operation of any quarry which it opines is dangerous to persons residing in or having legal access to the neighbourhood or creates or is likely to create a nuisance. However, if the activity is vested in the Government, consent from Director of Mines and Geology is required.

11.3. Odisha Grama Panchayati Raj Act, 1964

- **Section 44 (e)** states removal of unauthorised obstruction, projection and encroachment in or public streets and public places as one of the functions of the Gram Panchayat.
- **Section 44 (l)** makes the Gram Panchayat responsible for the establishment, management and maintenance of common grazing grounds and lands for common benefits.

11.4. Jharkhand Panchayat Raj Act, 2001

- **Section 10 (1) (a) (xi)** gives the Gram Sabha the power to manage natural resources such as land, water and forest falling within the limits of the village area according to the Constitution and other relevant laws in force.
- **Section 10 (1) (a) (xiv)** states that sanitation and conservancy as well as prevention and solution of nuisance is a function of the Gram Sabha.
- **Section 10 (1) (a) (xvi)** states that making available and maintaining water sources for bathing, washing and drinking purposes for domestic animals is a function of the Gram Sabha.
- **Section 10 (5)** gives additional powers to the Gram Sabha in Scheduled Areas. Sub-section (ii) states that the Gram Panchayat should not only manage the natural resources

including land, water and forest within the village areas according to its tradition, but also in accordance with the provisions of the Constitution. It also states that spirit of other relevant laws in force must be duly kept in mind.

12. Provisions of the Panchayats (Extension to the Scheduled Areas) (PESA) Act, 1996

The Act extends the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas (referred in clause (1) of Article 244 of the Constitution). The Act requires amendments to the State Panchayat Acts to align them with the PESA Act, 1996.

o **Applicability of PESA**

Section 4: “Notwithstanding anything contained under part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:

- (a) A State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;”
- (d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;”

o **Definition of a Gram Sabha**

Section 4 (c): “every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;”

o **Consultation with Gram Sabha before undertaking activity in a PESA area**

Section 4 (j): “planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;”

Section 4 (i): “the Grama Sabha or the Panchayat at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;”

Section 4 (k): “the recommendations of the Grama Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;”

Section 4 (l): “the prior recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;”

Section 4 (m) (iii): “While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate

level and the Grama Sabha are endowed specifically with the power to prevent alienation of land in the Scheduled areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;"

13. Fisheries Acts

This section explores some sections of state level marine fisheries Acts, which could be exercised in remedying environmental and social impacts caused due to legal non-compliance.

13.1 The Karnataka Marine Fishing (Regulation) Act, 1986

The Karnataka Marine Fishing (Regulation) Act (MFRA), 1986 is a legislation that regulates the use of fishing vessels in the fishing zones of Karnataka. The purpose of the Act is to avoid conflict between traditional fisherfolk and mechanised boat owners.

o **Power of the State Government to pass orders on fishing in certain areas**

Section 3: "(1) The Government may, having regard to the matters referred to it in sub-section (2), by notification, regulate, restrict or prohibit,-

- (a) the fishing in any specified area by such class or classes of fishing vessels as may be prescribed; or
- (b) the number of fishing vessels which may be used for fishing in any specified areas; or
- (c) the catching in any specified area of such species of fish and for such period as may be specified in the notification; or
- (d) the use of such fishing gear in any specified area as may be prescribed.

(2) In making an order under sub-section (1), the Government shall have regard to the following matters, namely:

- (a) the need to protect the interest of different sections of persons engaged in fishing particularly those engaged in fishing using traditional fishing craft such as country craft or canoe;
- (b) the number of fishing vessels which may be used for fishing in any specified area;
- (c) the need to maintain law and order in the sea; and
- (d) any other matter that may be prescribed."

o **Requirement for vessels to comply with the orders**

Section 4: "Prohibition of use of fishing vessel in contravention of any order made under section 3: No person including the owner or master of a fishing vessel shall use or cause or allow to be used, such fishing vessel for fishing in any manner which contravenes the order made under section 3:

Provided that nothing in such notification shall be construed as preventing the passage of any fishing vessel from or to the shore through any specified area to or from any area other than specified area, for the purpose of fishing in such other area or for any other purpose:

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any fishing vessel."

o **Requirement of license for vessels to be used for fishing**

Section 5: "Licensing of fishing vessels: (1) The owner of a registered fishing vessel may make an application to the authorised officer for the grant of a license for using any fishing vessel for fishing in any specified area."

Section 6: "No person shall after the commencement of this Act carry on fishing in any specified area using a fishing vessel which is not licensed under section 5:

Provided that nothing in this section shall apply to any fishing vessel, which was being used for fishing before the commencement of this Act for such period as the Government may by notification specify."

o **Power of the authorised officer to cancel/amend the license**

Section 7: "(1) If the authorised officer is satisfied either on a reference made to him in this behalf or otherwise, that-

- (a) a licence granted under section 5 has been obtained by misrepresentation as to an essential fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with any of the condition subject to which the licence has been granted or has contravened any of the provisions of this Act or any order or rule made thereunder, then without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the Licensing Officer may, after giving the holder of the licence a reasonable opportunity of showing cause, cancel or suspend the licence or forfeit the whole or any part of the security if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the Licensing Officer may vary or amend a licence granted under section 5."

o **Power of the authorised officers to verify violations and take action**

Section 11: "(1) The authorised officer may, if he has reason to believe that any fishing vessel is being, or has been used in contravention of any of the provisions of this Act or any order or rule made thereunder or any of the conditions of the licence, enter and search such vessel and impound such vessel and seize any fish found in it.

(2) The authorised officer shall keep the fishing vessel impounded under sub-section (1), in such place and in such manner as may be prescribed.

- (iii) dispose of the fish so seized and deposit the proceeds thereof in such manner as may be prescribed, and
- (iv) make a report of the contravention to the Court if the offence is punishable under clause (b), (c), (d) or (e) of sub-section (1) of section 21 and in other cases, to the Police Officer in charge of a police station."

o **Offences and penalties**

Section 13: "Penalty- (1) The arbitrator shall, after the enquiry under section 12 decide whether any person who has used, or caused or allowed to be used, any fishing vessel in contravention of any of the provisions of this Act, or of any order or rule made thereunder or any of the conditions of the licence and any such person on being found guilty by the arbitrator, shall be liable to such penalty not exceeding,

- (a) five thousand rupees, if the value of the fish involved is one thousand rupees or less;
 - (b) five times the value of the fish, if the value of the fish involved is more than one thousand rupees; or
 - (c) five thousand rupees, in any other case, being a case not involving fish,
- as may be determined by the arbitrator.

(2) In addition to any penalty that may be imposed under sub-section (1), the arbitrator may direct that, -

- (a) the registration certificate of the fishing vessel which has been used, or cause or allowed to be used, in the manner referred to in sub-section (1) or the licence, any condition of which has been contravened, shall be,-
 - (i) cancelled or revoked, as the case may be; or
 - (ii) suspended for such period as the arbitrator deems fit; or
- (b) the fishing vessel or fish that may have been impounded or seized, as the case may be, under section 11 shall be forfeited to the Government:

Provided that no fishing vessel shall be forfeited under clause (b), if the arbitrator after hearing the owner of such vessel or any person claiming any right thereto, is satisfied that the owner or such person had exercised due care for the prevention of the commission of such offence."

Under this Act, in 1994, the Karnataka State Government put out an Order reserving a belt from the sea shore up to 10 km for traditional fishing operations.

13.2. Gujarat Fisheries Act, 2003

Gujarat Fisheries Act, 2003 regulates fishing in marine and inland waters (except private waters). It provides for the State Government to issue notifications for regulating fishing in specified areas.

o **Powers to the State Government to make rules for the protection of fish in inland waters**

Section 6 (1) (a): "The State Government may, by notification in the Official Gazette, make rules for any water other than private waters for all or any of the following matters, namely:-

- (a) Prohibiting or regulating:-
 - (i) the erection or use of fishing gear,

- (ii) the construction of weirs, dam and bunds,

- (iii) the release of any industrial waste sewage or effluent to the inland waters which may be harmful to species of fish or the food of fish."

o **Power of the State Government to issue a notification for specified areas**

Section 7: "(1) The State Government may, having regard to the matters referred to in sub-section (2), by notification in the Official Gazette, regulate, restrict or prohibit in any specified area,-

- (a) the fishing by such class or classes of fishing vessels and for such period as may be specified in the notification;
- (b) the catching of such species of fish and for such period as may be specified in the notification,
- (c) the use of such fishing gears as may be specified in the notification,
- (d) the mariculture,
- (e) the collection of biological specimen, and
- (f) the number of fishing vessels which may be used for fishing.

(2) In issuing a notification under sub-section (1), the State Government shall have regard to the following matters, namely:-

- (a) The need to protect the interest of the different sections of persons engaged in fishing particularly of those engaged in fishing with traditional fishing craft such as catamaran, country craft or canoes."

o **Requirement for vessels to comply with the notification**

Section 8: "No owner or master of a fishing vessel shall use or cause or allow to be used, a fishing vessel for fishing in contravention of the notification issued under section 7:

Provided that nothing in such notification shall be construed as preventing the passage of any fishing vessel from or to the shore through any specified area to or from any area other than specified area, for the purpose of fishing in such other area or for any other purpose:

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as catamaran, country crafts or canoe."

o **Requirement of license for vessels to be used for fishing**

Section 9: "No fishing vessel which is not licensed under section 10 shall, after the date of commencement of this Act (hereinafter referred to as "the said date"), be used for fishing in any specified area:

Provided that nothing in this section shall apply to any fishing vessel existing on the said date for a period of six months from the said date or such longer period as the State Government may, by notification in the Official Gazette, specify."

o **Power of the Licensing Officer to cancel/amend the license**

Section 11: "(1) If the Licensing Officer is satisfied either on a reference made to him in this behalf or otherwise, that-

- (a) a licence granted under section 10 has been obtained by misrepresentation as to an essential fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with any of the condition subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made or any notification issued thereunder, then without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the Licensing Officer may, after giving the holder of the licence a reasonable opportunity of being heard, suspend or cancel the licence.

(2) Subject to any rules that may be made in this behalf, the Licensing Officer may vary or amend a licence granted under section 10."

o **Power of the Enforcement Officers to verify violation and take action**

Section 15: "If the Enforcement Officer has reasons to believe that any fishing vessel is being or has been used in contravention of any of the provisions of this Act, or of any rule or order made or any notification issued thereunder or of any condition of the license issued under section 10, then he may –

- (i) enter and search such vessel and impound such vessel and seize any fish found in it,
- (ii) keep the impounded fishing vessel in such place and in such manner as may be prescribed,
- (iii) dispose of the fish so seized and deposit the proceeds there of in such manner as may be prescribed, and
- (iv) make a report of the contravention to the Court if the offence is punishable under clause (b), (c), (d) or (e) of sub-section (1) of section 21 and in other cases, to the Police Officer in charge of a police station."

o **Offences and penalties**

Section 21: "(1) (a) Whoever contravenes the provisions of section 3, 4 or 5 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine not exceeding ten thousand rupees or with both.

(b) Whoever use any fishing vessel for fishing in contravention of section 8 shall, on conviction, be punished with fine not exceeding fifty thousand rupees.

(c) Whoever use any fishing vessel which is not licensed for fishing in any specified area in contravention of section 9 shall, on conviction, be punished with fine not exceeding fifty thousand rupees.

(e) Any person who commits a breach of any of the provisions of the rules or the order made under this Act shall be punishable with fine which may extend to ten thousand rupees and when breach is continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of such breach."

14. Guidelines/criteria for evaluation of proposals/requests for ground water abstraction (with effect from 16.11.2015)

These guidelines are for the areas where the ground water development is regulated and they were issued with the purpose to manage ground water resources while ensuring water sustainability. They are based on the latest assessment of state wise ground water resources done in March 2011. The Central Ground Water Authority (CGWA), from time to time, notifies areas where the ground water extraction is regulated. Currently there are 162 such areas. The updated list as applicable to these guidelines can be found at www.cgwa-noc.gov.in.

Section 1: "Scope & Objective...The District Administrative Heads (Deputy Commissioner/District Magistrate/District Collector) in case of Administrative Block or Taluka, or the Head of the Municipality (in case of Municipal Area) of the notified areas in the country have been appointed as 'Authorized Officers' by Central Ground Water Authority under Section 4 of the Environment Protection Act (EPA) (1986).

Regulation of Ground Water development in Notified areas is through district administrative heads assisted by Advisory Committees under the provisions of Section 4 of the EPA, 1986. All issues pertaining to granting of NOC's for ground water withdrawal, checking violations, sealing of ground water abstraction structures, launching of prosecution against offenders, attending to complaints, etc., are to be addressed by the Authorized Officers."

o **Notified Areas**

Section 2: "Permission to abstract ground water through any energized means will not be accorded for any purpose other than drinking water. The permission would be granted by the Authorised Officer in consultation with the advisory committee constituted for this purpose. The list of notified areas, is given in Annexure II and also available on the web-site (www.cgwb.gov.in)."

Section 2.1: "NOC can be accorded for construction of ground water abstraction structures/ replacement of existing defunct well for drinking and domestic purposes only. Government Water supplying agencies can be accorded NOC as per their requirement. NOC for infrastructure projects will be considered after issue of completion certificate from competent Authority as per Govt. norms for drinking and domestic purposes. NOC for ground water withdrawal will be considered only if Water Supplying Department is not providing adequate water in the area/premises. Proof for this is to be produced from the concerned authority by the applicant."

o **Non-notified areas**

Section 3: "NOC for ground water withdrawal will be considered for Industries/Infrastructure /Mining projects as per the criteria given below^{4*}."

⁴For the criteria see the guidelines

Section 3.1.1. (b) "Water intensive industries- Industries using ground water as raw material/water intensive industries⁵ shall not be granted NOC for ground water withdrawal in Over-Exploited Areas.⁶ A list of different industries categorised as water intensive is given in Annexure V. In Safe, Semi-Critical & Critical areas NOC for ground water withdrawal is mandatory for these industries as per Section 3,1. However, ground water withdrawal will be limited."

Section 3.1.2 (b) "The quantum of ground water for usage other than drinking/ domestic shall not exceed 25% of total ground water abstraction in case of Housing projects/ Residential Townships."

Section 3.1.3. (d) "Wherever the mines/de-watering project is situated in the coastal area special care should be taken to prevent sea water ingress. This should be supported by a technical evaluation report."

Section 5: "Industries/Infrastructure/Mining projects coming up in agricultural land or any other land after change in land use shall have to submit all documents endorsing the change of land use from competent authority. Withdrawal of ground water from existing abstraction structures, if any, after change in land use in the area can be done only after approval from the Central Ground Water Authority. Cases would be processed as per changed land use."

o **Issuance and renewal of NOC**

Section 6 (e): "No application for NOC shall be entertained without referral letters from the statutory authority (Central and State Govt. Departments and Agencies like State Pollution Control Board, Industries Department, Industrial Development Authority)."

Section 6 (f): "The referral letter shall contain verification on the quantum of water for the industry/project with detailed break up of ground water consumption, recycle & reuse of the waste water, so that the wastage of the precious resource can be avoided. In case this is not given by the referral authority, applicant should obtain a letter from the Industries Dept/ Project Sanctioning Authority/local municipal authority in urban areas on the same lines."

Section 6 (j): "Relaxation in the quantity of ground water withdrawal in over-exploited areas, and/or quantity of recharge being affected by the firm can be permitted by CGWA if it feels it absolutely necessary in national interest."

Section 6 (m): "NOC issued is non-transferable."

Section 7: "Issuance and renewal of NOC

- (a) NOC will be accorded in non-notified areas for a period of two years initially and will be renewed for a period of three years, subject to compliance of conditions mentioned in the NOC. Thereafter, NOC's shall be renewed every five years subject to the compliance of the conditions mentioned in the renewed NOC.

⁵The list of industries categorised as water intensive is provided in Annexure V of the Guidelines-packaged drinking water, mineral water plant, tannery, distillery, brewery, soft drink, paper and pulp, fertiliser, textile dyeing, textile printing, textile spinning, sugar, dairy product, water park and amusement centre).

⁶The Assessment done on Ground Water Resource Estimation in 2011 categorises areas as safe, semi-critical, critical and over-exploited.

- (b) Renewal of NOC's issued earlier to industries/projects in non-notified areas and where the area has subsequently become notified, will be done by CGWA for every two (2) years. The Authorized officer will forward the application to the concerned Regional Director of CGWB with his recommendations for processing and forwarding to CGWA.
- (c) In case of change in category of the area, renewals would be granted with conditions as laid down for such new category areas. In case it is difficult to comply with the conditions the applicant should satisfy the authority for granting exemption/alternative measure. The condition of recharge may be relaxed for OE blocks at par with Critical blocks and for Critical blocks at par with semi-critical blocks.
- (e) Categorization of certain industries as 'Water intensive industry' have been made with effect from 15.11.2012. Since then ground water withdrawal by such industries is not permitted in OE areas. Renewal of NOC for those water intensive industries to which NOC was issued for ground water withdrawal prior to 15.11.2012 and are now falling in Over-exploited and Notified areas will be done by CGWA initially for two years and subsequently for every three years. For Notified areas, the authorized officer shall forward his recommendations to the Regional Director who in turn would send the same alongwith his recommendations to CGWA. The renewal would be limited to 50% of the recharge quantity or the earlier permitted quantity whichever is less."

Section 8: "All existing Industries/projects which are drawing ground water and have not obtained NOC for ground water withdrawal from Central Ground Water Authority, either due to its coming into existence prior to formation of CGWA or due to exemption from obtaining NOC as per earlier guidelines, shall apply to CGWA for NOC for ground water withdrawal with immediate effect. This would be applicable to States/UT's in which regulation of ground water withdrawal is being done by CGWA. The application has to be submitted online. The grant of NOC would be considered as per prevailing guidelines. It would be mandatory for these industries/projects to submit water quality report of effluents, if any, vetted by competent authority. The industry/project should have valid EC or 'consent to operate' under water act or referral letter issued by the State/ Central regulatory authority."

o **Cancellation of NOC**

Section 6 (b): "Non-compliance of conditions mentioned in the NOC may be taken as sufficient reason for cancellation of NOC accorded/ non-renewal of NOC."

o **Power of the CGWA to waive off the conditions of the NoC**

Section 7 (d): "In case it is found that some of the conditions stipulated during the issuance NOC have not been implemented in certain localities it may be relaxed by CGWA based on the recommendations of the concerned Regional Director for specific areas as per site specific condition."

15. Public Liability Insurance Act, 1991

To provide immediate relief to the persons affected by accident due to handling of any hazardous substances, the Act makes the owner of such a facility responsible for the same.

- o **Responsibility on the owner to provide relief in case of any harm to life or property due to an accident while handling hazardous wastes**

In such cases a claimant does not have to prove that the damage occurred due to any default of any person.

Section 3 (1): "Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall be liable to give such relief as is specified in Schedule for such death, injury or damage."⁷

Section 3 (2): "In any claim for relief under sub-section (1) (hereinafter referred to in this Act as claim for relief), the claimant shall not be required to plead and establish that the death, injury or damage in respect of which the claim has been made was due to any wrongful act, neglect or default of any person."

- o **Need for procuring an insurance cover before initiating any hazardous substances' handling facility**

Section 4 (1): "Every owner shall take out, before he starts handling any hazardous substance, one or more insurance policies providing for contracts of insurance thereby he is insured against liability to give relief under sub-section (1) of section 3;"

- o **Claims in the event of an accident, damage or injury**

Section 5: "Whenever it comes to the notice of the Collector that an accident has occurred at any place within his jurisdiction, he shall verify the occurrence of such accident and cause publicity to be given in such manner as he deems fit for inviting applications under sub-section (1) of section 6"

Section 6: "(1) An application for claim {or relief} may be made-

- (a) by the person who has sustained the injury;
- (b) by the owner of the property to which the damage has been caused;
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- (d) by any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for relief, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Collector and shall be in such form, contain such particulars and shall be accompanied by such documents as may be prescribed.

(3) No application for relief shall be entertained unless it is made within five years of the occurrence of the accident."

⁷The Schedule to the Act specifies the amount of compensation in cases of injury, death or damage to property.

Section 7: "(1) On receipt of an application under sub-section (1) of section 6, the Collector shall after giving notice of the application to the owner and after giving the parties an opportunity of being heard, hold an inquiry into the claim or, each of the claims, and may make an award determining the amount of relief which appears to him to be just and specifying the person or persons to whom such amount of relief shall be paid.

(2) The Collector shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

(3) When an award is made under this section,-

- (a) the insurer, who is required to pay any amount in terms of such award and to the extent specified in sub-section (2B) of section 4, shall, within a period of thirty days of the date of announcement of the award, deposit that amount in such manner as the Collector may direct;
- (b) the Collector shall arrange to pay from the Relief Fund, in terms of such award and in accordance with the scheme made under section 7A, to the person or persons referred to in sub-section (1) such amount in such manner as may be specified in that scheme;
- (c) the owner shall, within such period, deposit such amount in such manner as the Collector may direct.

(4) In holding any inquiry under sub-section (1), the Collector may, subject to any rules made in this behalf, follow such summary procedure as he thinks fit.

(5) The Collector shall have all the power of the Civil Court for the purpose of taking evidence on oath and that of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Collector shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure 1973 (2 of 1974).

(6) Where the insurer or the owner against whom the award is made under sub-section (1) fails to deposit the amount of such award within the period specified under sub-section (3), such amount shall be recoverable from the owner, or as the case may be, the insurer as arrears of land revenue or of public demand.

(7) A claim for relief in respect of death of, or injury to, any person or damage to any property shall be disposed of as expeditiously as possible and every endeavour shall be made to dispose of such claim within three months of the receipt of the application for relief under sub-section (1) of section 6.

(8) Where an owner is likely to remove or dispose of his property with a view to evading payment by him of the amount of award, the Collector may, in accordance with the provisions contained in rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, (5 of 1908), grant a temporary injunction to restrain such act."

- o **Powers of the Central Government or an authorised officer regulate and restrict a hazardous substance handling facility in case of non-compliance**

Section 11: "(1) If a person, authorised by the Central Government in this behalf, has reason to believe that handling of any hazardous substance is taking place in any place premises or vehicle, in contravention of subsection

- (1) of section 4, he may enter into and search such place, premises or vehicle for such handling of hazardous substance.
- (2) Where, as a result Of any search under sub-section (1) any handling of hazardous substance has been found in relation to which contravention of sub-section (1) of section 4 has taken place, he may sieze such hazardous substance and other things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

Provided that where it is not practicable to seize any such substance or thing he may serve on the owner an order that the owner shall not remove, part with, or otherwise deal with, the hazardous substance and such other things except with the previous permission of that person.
- (3) He may, if he has reason to believe that it is expedient so to do to prevent an accident dispose of the hazardous substance seized under sub-section (2) immediately in such manner as he may deem fit.
- (4) All expenses incurred by him in the disposal of hazardous substances under sub-section (3) shall be recoverable from the owner as arrears of land revenue or of public demand."

Section 12: "Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions in writing as it may deem fit for the purposes of this Act to any owner or any person, officer, authority or agency and such owner, person, officer, authority or agency shall be bound to comply with such directions.

Explanation: For the removal of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct:

- a. prohibition or regulation of the handling of any hazardous substance; or
- b. stoppage or regulation of the supply of electricity, water or any other service"

16. The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (FRA, 2006)

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 aims at recognising tribal and other forest dwelling communities' rights to manage, use and conserve forest land . Once the rights are clarified, the law also grants powers to protect and conserve areas.

Section 5 grants the holders of any forest rights, gram sabha and village level institutions in areas where there are holders of any forest rights the power to:

- protect the wildlife, forest and biodiversity
- ensure that adjoining catchment area, water sources and other ecological sensitive areas are protected
- ensure that habitat of forest dwellers is preserved from any destructive practices affecting their cultural and natural heritage

17. Karnataka Regulation of Stone Crushers Act, 2011

The Karnataka Regulation of Stone Crushers Act prescribes the policy for regulating the business related to the crushing of stones by prescribing reasonable conditions including guidelines and licenses and their periodical renewals.

Section 3: "Stone crushers to obtain license.- (1) No person shall carry on the business of stone crushing in the State except under and in accordance with the terms and conditions of a license issued under this Act. (2) Any person who is carrying on the business of stone crusher on the date of commencement of this Act with a license issued by any authority shall apply to the Licencing Authority [with a declaration in the prescribed form that the existing area conforms to the condition stipulated in Section 6 or any other suitable area conforming to the conditions stipulated under section 6, within three months from the date of commencement of the Karnataka Regulation of Stone Crushers (Amendment) Act, 2013 for a license under section 4 of the Act]"

Section 9: "Duties of the Authority.- (1) The Authority shall meet once in a month and meeting shall be called by the member secretary. If for any reason it is necessary, the member secretary may with the approval of the chairman, convene the meeting at any time. One third of the total members shall form the quorum for the meetings. (2) The duties of the Authority shall be,- (i) to cause Joint Inspection of stone crushers and obtain report by the concerned officers of Mines and Geology, Revenue, Forest departments and KSPCB to verify the conditions stipulated for declaring the safer zone; (ii) to declare the safer zone, which are conforming the norms; (iii) to issue Certificate of compliance of safer zone in such form as may be prescribed to the applicants having stone crusher located in declared safer zone;"

Section 10: "Cancellation of license.- The license issued under this Act may be cancelled suo-moto for the reasons to be recorded in writing by the Licensing Authority or on considering any complaint or application filed by any person to the effect that the license granted is not in accordance with the provisions of this Act and rules or that the licensee has violated the conditions of license: Provided that no order of canceling the license shall be made under this section without giving an opportunity of being heard to the licensee or a person aggrieved by such cancellation."

Section 11: "Power to issue directions.- Subject to the provisions of this Act and to any directions that the Central Government or State Government may give in this behalf, the Licensing Authority may in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions. Explanation.-

The power to issue directions under this section shall include, the power to direct,- (a) the closure, prohibition or regulation of any stone crusher; or (b) the stoppage or regulation of supply of electricity, water or any other service to the stone crusher.”

Section 12: “Victim Relief Fund.- (1) The Authority shall have and maintain a separate fund called Victim Relief Fund, to which all money received by it as application fee, licence fee, fines and penalties levied shall be credited. It shall be, applied and disbursed in accordance with such rules as may be prescribed. (2) The Chairman and the member secretary of the Authority shall jointly operate the Victim Relief Fund in accordance with the procedure as may be prescribed. (3) The Victim Relief Fund shall be kept in any of the Nationalized Banks in such manner as may be prescribed. (4) The Authority shall receive complaints or applications or claim from the victims regarding the health hazards caused by the stone crushers within a period of three months from the date of cause of action and decide the relief or amount of compensation to be granted to the victim or their legal representatives within a period of three months from the date of receipt of such application. The Authority while determining the amount of relief or compensation shall invite one representative of the registered association of stone crusher and one representative of the stone crusher labourers. The Authority is at liberty to condone the delay of filing complaint or application or claim for good and sufficient reasons. (5) The Authority may also direct the license holder to pay such amount to such of the victims as determined under sub-section (4) in addition to the amount paid by it, within the time specified by the Authority in its order. Failing which, the amount specified in the order shall be recovered as arrears of Land Revenue and license shall be cancelled. Provided that the order so passed shall be communicated to all parties concerned, immediately.”

18. Commons Judgment: Supreme Court of India- Civil Appeal No. 1132/2011 @ SLP(C) No. 3109/2011 [arising out of Special Leave Petition (Civil) CC No. 19869 of 2010; Jagpal Singh and Others vs State of Punjab & Others]

Point 22 of the Supreme Court judgment directs all the State Governments to take steps to remove any encroachments on village common land.

Point No. 22: “We give directions to all State Governments in the country that they should prepare schemes of eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose chief secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments...Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”

Following the Supreme Court Judgment (1132/2011) dated 28.1.2011, the office of the Development Commissioner, Gujarat, passed a circular on 4.3.2011-“Removal of encroachment on land vested including Gauchar”. The circular states that according to

Section 105 of Gujarat Panchayats Act, 1993, “the village Panchayat has the powers to remove unauthorised encroachments, encroachments without permission and on Gauchar land or any crop grown unauthorisedly on any other land”. The circular adds that under the above-mentioned clause, powers have been delegated to the Panchayat to remove any unauthorised obstruction or encroachment on any open site which is not a private property. The circular was sent to the District Development Officers and District Collectors, asking them to remove all encroachments and give notice at the village panchayat level. The circular stated that the Panchayats may not be able to do so due to “vested local level interest.” Village and taluka Panchayat are to make sure that no encroachment takes place in future.

The A.T. Ramaswamy Committee submitted two reports on 26.7.2006 and 1.2.2007 and before the State Assembly of Karnataka. They suggested (among other things) effective implementation of the existing laws against land grabbers, protection of public properties, and initiating legal action against government and public servants for creating false documents or destruction of records.

19. Almitra H. Patel and Another vs Union of India and Others

This judgment was passed on 22.12.2016. The petition was filed seeking for orders and directions for urgently taking steps to improve the practices presently adopted for collection, storage, transportation, disposal, treatment and recycling of Municipal Solid Waste generated in various cities across India. The tribunal passed several directions strengthening and clarifying provisions of the Solid Waste Management Rules, 2016 as well as general directions with regard to solid waste management.

Direction for action against authorities responsible for non-compliance

Point 3: “Any State or Union Territory which now fails to comply with the statutory obligations as afore indicated shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986. Besides that, it would also be liable to pay environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.”

Directions regarding buffer zone

Point 7: “It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500 meters wherever there is a land constraint. The purpose of the buffer zone should be to segregate the plant by means of a green belt from surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the authorities concerned and the Rules are silent with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence, we hold that this provision is not mandatory, but is directory. We make it clear that buffer zone and green belt are essential and their extent would have to be decided on a case-to-case basis.”

Directions regarding landfill sites

Point 13: “The landfill sites shall be subjected to bio-stabilisation within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent, leachate and generation of Methane.”

Point 14: “Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of clause-12.”

Point 15: “The non-biodegradable waste and non-recyclable plastic should be segregated from the landfill sites and be used for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding work to concessionaire/operator of the facility.

Directions regarding burning of wastes

Point 19: “We specifically direct that there shall be complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs. 5,000/- (Rs. Five Thousand only) in case of simple burning, while Rs. 25,000/- (Rs. Twenty Five Thousand only) in case of bulk waste burning.”

20. Orissa Irrigation (Amendment) Rules, 2010

Section 23-A: “Drawal of water from Government water source.- (1) When any industrial, commercial or other establishment proposes to draw or lift water from a Government water source,—

- (a) the Executive Engineer may earmark the bed and off-shore lands of the said water source free from encumbrances and set it apart for that purpose;
- (b) the Executive Engineer shall order installation of a Flow Meter or a suitable measuring device within a period of ninety days from the date of such order at the cost of the concerned industrial, commercial or other establishment to measure the quantum of water to be drawn from the water source and the Flow Meter or measuring device, as the case may be, shall be installed under the direct supervision of the Executive Engineer or an Engineer not below the rank of an Assistant Engineer to be specifically authorised by him, failing which, the water-supply shall not be made;
- (c) the Flow Meter or measuring device, as the case may be, will be certified and checked about its accuracy from time to time by the Weights and Measures Organisation of the State Government or any other organization as the State Government may, by notification, specify from time to time to ensure accurate measurement of quantum of water for the purpose of collection of fee; and

- (d) the industrial, commercial or other establishment shall be responsible for smooth maintenance and up-keeping of the Flow Meter system under the general supervision of the Executive Engineer, who may, for cross-checking of the Flow Meter or suitable measuring device, install an additional Flow Meter or suitable measuring device, as the case may be, at a suitable place along the pipe line in the premises of the concerned establishment.
- (2) The Government in its Water Resources Department shall be the competent authority to grant licence under the provisions of the Act to industrial, commercial and other establishments on application and in the following manner, namely :—
 - (a) the application shall be submitted in Form ‘J’ by the industrial, commercial or other establishment personally or by registered post to the Secretary of the Water Resources Department or any other officer authorized by the said Secretary for drawing and lifting of water from Government water source, alongwith a processing fee of one thousand rupees in the shape of Bank draft drawn in favour of Secretary or any other officer of the Water Resources Department authorized by the Secretary in writing;”

Annexure 1

BUILDING EVIDENCE FOR ENVIRONMENT JUSTICE (EJ) CASES

The most stringent standard of resolving legal cases is that of “beyond reasonable doubt”. This is the standard used in criminal proceedings. This means that in order to convict or prosecute another party, a complainant has to prove that there is almost no element of doubt about who committed a criminal act, how and when.

In civil cases like EJ cases, we need to at the very least provide evidence that passes the test or standard of “balance of probabilities”. It means it is most important for a plaintiff (or the person making the claim) to prove that the activity identified is the most probable cause of an impact that has occurred in an area. When such a standard is used, the case is decided in favour of the party whose claims are more likely to be true. Though the actual truth may never be known, the case is decided on the basis of weight of evidence or proof.

There are two important elements in building evidence in environment justice cases. These would ensure government bodies, the erring party, other affected people in an area or the media, take the complaints seriously.

1. RELEVANCE: PROOF FOR THE PROBLEM STATEMENT AND ATTRIBUTION

What this simply means is that every complaint being filed needs to be backed up with clear and most persuasive proof that an impact has occurred due to non-compliance of law. Proof can include photographs of the site or impacts, maps of the site of impact, GPS coordinates of the location of impact, government circulars or notices that have already identified such impacts in the past, newspaper/TV reports stating the problem and when or how it took place, scientific reports and studies that state how such activities cause impacts.

Proof needs to be shown for:	
What is the problem statement	Who caused the impact
When it was caused	How it was caused
When your evidence answers all these questions, it is called attribution.	

2. RELIABILITY: QUALITY OF EVIDENCE

Evidence presented to official forums should be as reliable and accurate as possible if the complaint is to be taken seriously. To collect reliable evidence, the following two methods are used:

ପରିଶିଷ୍ଟ ୧

ପରିବେଶ ନ୍ୟାୟ ମାମଲାପାଇଁ ତଥ୍ୟ ପ୍ରମାଣର ପ୍ରସ୍ତୁତି

ନ୍ୟାୟିକ ମକଦ୍ଦମା ଫାଇସଲାର ସବୁଠାରୁ କଠୋର ମାନକ ଯୁକ୍ତିଯୁକ୍ତ ସଂଶୟ ବହିର୍ଭୂତ ଅଟେ । ଏହି ମାନକକୁ ଅପରାଧିକ ମାମଲା ବିଚାର ସମୟରେ ବ୍ୟବହାର କରାଯାଇଥାଏ । ଏହାର ଅର୍ଥ କୌଣସି ପକ୍ଷ ବିରୁଦ୍ଧରେ ଆଇନଗତ ଅଭିଯୋଗ କରିବା କିମ୍ବା ଦୋଷୀ ସାବ୍ୟସ୍ତ କରିବା ପାଇଁ ଅଭିଯୋଗକାରୀକୁ ପ୍ରମାଣ କରିବାକୁ ପଡ଼ିବ ଯେ କିଏ, କିପରି ଓ କେତେବେଳେ ଅପରାଧଟି କରିଥିଲା ସେ ବାବଦରେ ତିଳେମାତ୍ର ସନ୍ଦେହ ନାହିଁ ।

ପରିବେଶ ନ୍ୟାୟ ମାମଲା ଭଳି ଦେବ୍ଟାନୀ ମାମଲାରେ ଅତିକମ୍ରେ ଏପରି ତଥ୍ୟ ପ୍ରମାଣ ଦେବାକୁ ହୁଏ ଯାହା ସମ୍ଭାବ୍ୟତାର ସମତୁଲ୍ୟତା ମାନକ ପରୀକ୍ଷାରେ ଉତ୍ତୀର୍ଣ୍ଣ ହୋଇ ପାରିବ । ଏହାର ଅର୍ଥ ଅଭିଯୋଗକାରୀକୁ (କିମ୍ବା ଦାବୀ ଉପସ୍ଥାପନ କରୁଥିବା ବ୍ୟକ୍ତି) ପ୍ରମାଣ କରିବାକୁ ହେବ ଯେ ନିର୍ଦ୍ଦିଷ୍ଟ କାର୍ଯ୍ୟକଳାପ ସଂପୃକ୍ତ ଅଞ୍ଚଳରେ ଅନୁଭୂତ ପ୍ରଭାବର ପ୍ରଧାନତଃ ସମ୍ଭାବ୍ୟ କାରଣ । ଯେତେବେଳେ ଏହି ମାନକକୁ ବ୍ୟବହାର କରାଯାଏ ସେତେବେଳେ ଯେଉଁ ପକ୍ଷର ଦାବୀ ସତ୍ୟବୋଲି ପ୍ରତିପାଦ ହୁଏ ମାମଲାଟି ସେହି ପକ୍ଷର ସପକ୍ଷରେ ଫାଇସଲା ହୋଇଥାଏ । ଯଦିଓ ପ୍ରକୃତ ସତ୍ୟ କେବେହେଲେ ଜଣାପଡ଼ିବନାହିଁ ତଥାପି ମକଦ୍ଦମାର ନିଷ୍ପତ୍ତି ତଥ୍ୟ ବା ପ୍ରମାଣର ଓଜନ ଆଧାରରେ ହୋଇଥାଏ ।

ପରିବେଶ ନ୍ୟାୟ ମକଦ୍ଦମାରେ ତଥ୍ୟ ପ୍ରମାଣ ପ୍ରସ୍ତୁତିର ଦୁଇଟି ମୁଖ୍ୟ ଉପାଦାନ ଅଛି । ସରକାରୀ ବିଭାଗ, ବୋର୍ଡ଼ାପକ୍ଷ, ଅଞ୍ଚଳର ଅନ୍ୟାନ୍ୟ ପ୍ରଭାବିତ ଜନସାଧାରଣ କିମ୍ବା ଗଣମାଧ୍ୟମ ଅଭିଯୋଗକୁ ଗୁରୁତ୍ୱର ସହ ଗ୍ରହଣ କରିବାକୁ ଏହା ସୁନିଶ୍ଚିତ କରେ ।

୧. ପ୍ରାସଙ୍ଗିକତା- ସମସ୍ୟା ସମ୍ପର୍କିତ ତଥ୍ୟର ବିଧିବଦ୍ଧ ପରିପ୍ରକାଶ ପାଇଁ ପ୍ରମାଣ ଏବଂ ଆରୋପ

ସରଳ ଭାଷାରେ କହିବାକୁ ଗଲେ ପ୍ରତ୍ୟେକ ଅଭିଯୋଗ ସମସ୍ୟାଟି ବିଧିସମ୍ମତ ସର୍ତ୍ତ ଆଇନ୍‌ର ପାଳନ ନ ହେବା ହେତୁ ସୃଷ୍ଟି ହୋଇଥିବାର ସ୍ପଷ୍ଟ ଓ ବୁଝାଇପାରିବା ଭଳି ପ୍ରମାଣ ଦ୍ୱାରା ସ୍ପଷ୍ଟ ହେବା ଉଚିତ୍ । ପ୍ରମାଣ ମଧ୍ୟରେ ସ୍ଥାନ ବା ପ୍ରଭାବର ଫଟୋ ପ୍ରଭାବ କ୍ଷେତ୍ରର ମାନଚିତ୍ର, ପ୍ରଭାବକ୍ଷମତାର ଅବସ୍ଥିତିର କିପିଏସ୍ ନିର୍ଦ୍ଦେଶାଙ୍କ, ସରକାରୀ ନିର୍ଦ୍ଦେଶପତ୍ର ବା ବିଜ୍ଞପ୍ତି ଯାହା ଅତୀତରେ ଏପରି ପ୍ରଭାବକୁ ସୂଚୀତ କରିଛି, ସମ୍ବାଦପତ୍ର/ଟେଲିଭିଜନର ବିବୃତି ଯାହା ସମସ୍ୟା ଏବଂ ଏହା କେବେ ଓ କିପରି ସୃଷ୍ଟି ହେଲା ତାହା ପ୍ରକାଶ କରିଛି, ବୈଜ୍ଞାନିକ ବିବରଣୀ ଓ ଗବେଷଣା ଯାହା ଏପରି କାର୍ଯ୍ୟକଳାପ କିପରି ଏହି ପ୍ରଭାବ ସୃଷ୍ଟି କରେ ସେ ବାବଦରେ ଯୁକ୍ତି ଉପସ୍ଥାପନ କରିଛି ଇତ୍ୟାଦି ଅନ୍ତର୍ଭୁକ୍ତ ।

ଏହିସବୁ ବିଷୟରେ ପ୍ରମାଣ ଉପସ୍ଥାପନ କରିବାକୁ ହେବ	
ସମସ୍ୟାର ତଥ୍ୟ ଆଧାରିତ ଉକ୍ତି	କିଏ ପ୍ରଭାବ ସୃଷ୍ଟି ସୃଷ୍ଟି କଲା
ଏହା କେବେ ଘଟିଲା	ଏହା କିପରି ଘଟିଲା
ତଥ୍ୟପ୍ରମାଣ ଏହିସବୁ ପ୍ରଶ୍ନର ଉତ୍ତର ଉପସ୍ଥାପନ କଲେ ଏହାକୁ ଆରୋପ କୁହାଯାଏ	

୨. ବିଶ୍ୱାସନୀୟତା: ତଥ୍ୟ ପ୍ରମାଣର ଉତ୍କର୍ଷ

ସରକାରୀ ନ୍ୟାୟ ଫାଁରେ ଅଭିଯୋଗର ଗୁରୁତ୍ୱକୁ ଉପଲବ୍ଧି କରାଇବାକୁ ହେଲେ ଏହା ସମ୍ମୁଖରେ ଉପସ୍ଥାପନ କରାଯାଉଥିବା ପ୍ରମାଣକୁ ଯଥାସମ୍ଭବ ବିଶ୍ୱାସନୀୟ ଓ ସଠିକ୍ କରିବାକୁ ହେବ । ବିଶ୍ୱାସନୀୟ ପ୍ରମାଣ ସଂଗ୍ରହ କରିବା ପାଇଁ ନିମ୍ନଲିଖିତ ଦୁଇ ପ୍ରକାରର ପଦ୍ଧତି ଆପଣାଇବାକୁ ହେବ ।

• **Groundtruthing**

This method relies on comparing facts stated in official documents with the actual site of impact. For instance, if an environmental approval or license of an industry states that effluent should not be discharged in a nearby river, photographic evidence with date/ time/ location details can be created to show if this specific condition is being complied with or not. You can also provide a photographic series of photos taken at different times during a week to show the frequency/time table of discharge.

Groundtruthing is effective to create evidence with easily observable activities that are illegal or prohibited. E.g. destruction of mangroves, dumping of fly ash in an agricultural field etc.

• **Triangulation**

In most cases, no single piece of evidence might be enough to establish cause of problem and for a regulatory agency to take action. In such cases it is useful to establish the link between impact and legal non-compliance through at least three pieces of evidence. For instance, a photograph of effluent discharge can be supported by an earlier show cause notice of a regulatory agency or an approval condition along with media reports attributing the action to a particular industrial operation. If an official notice is not available, then a study indicating the impacts of effluent discharge by an industry is a possible generic addition. Triangulation is most important in cases where clear attribution is a challenge.

One important practice for paralegals engaged in collecting evidence of impacts due to non-compliance is to test all the evidence collected for the case on the basis of their relevance and reliability before presenting it to government or anyone else.

• **କ୍ଷେତ୍ର ସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ**

ଏହିପଦ୍ଧତି ପ୍ରକୃତ ପ୍ରଭାବ କ୍ଷେତ୍ରର ତଥ୍ୟ ଏବଂ ସରକାରୀ ନଥିପତ୍ରରେ ଦର୍ଶାଯାଇଥିବା ତଥ୍ୟ ମଧ୍ୟରେ ତୁଳନାତୁଳକ ବିଶ୍ଳେଷଣ ଉପରେ ନିର୍ଭରକରେ । ଉଦାହରଣ ସ୍ୱରୂପ, ଯଦି କୌଣସି କଳକାରଖାନାକୁ ଦିଆଯାଇଥିବା ପରିବେଶ ମଞ୍ଜୁରୀ କିମ୍ବା ଲାଇସେନ୍ସରେ ଦର୍ଶାଯାଇଥାଏ ଯେ କାରଖାନା ଏହାର ଦୂଷିତ ଜଳକୁ ନିକଟବର୍ତ୍ତୀ ନଦୀରେ ନିଷ୍କାସନ କରିପାରିବନାହିଁ ତେବେ ତାରିଖ / ସମୟ / ସ୍ଥାନ ର ବିବରଣୀ ସମ୍ବନ୍ଧିତ ଫଟୋ ମାଧ୍ୟମରେ କାରଖାନା ଏହି ସର୍ତ୍ତ ପାଳନ କରୁଛି କି ନାହିଁ ତାହାର ପ୍ରମାଣ ଯୋଗାତ କରାଯାଇପାରିବ । ଆହୁରି ମଧ୍ୟ ଗୋଟିଏ ସପ୍ତାହର ସମୟ ଅବଧି ମଧ୍ୟରେ ବିଭିନ୍ନ ସମୟରେ ଫଟୋ ଉଠାଯାଇ କେଉଁ ସମୟରେ/କେତେ ଥର ଦୂଷିତଜଳ ନଦୀକୁ ନିଷ୍କାସନ କରାଯାଉଛି ତାହାର ଅନେକ ଫଟୋ ମାଧ୍ୟମରେ ଆଲୋକଚିତ୍ର ପ୍ରସ୍ତୁତ କରାଯାଇପାରିବ ।

ସହଜରେ ଦୃଶ୍ୟମାନ ଯଥା- କଳକାରଖାନାର ପାଇଁ ଚାଷଜମିରେ ଗଦାକରିବା, ମ୍ୟାନ୍‌ଗ୍ରୁଭ୍ ଧ୍ୱଂସ କରିବା ପରି ବେଆଇନ୍ କିମ୍ବା ନିଷିଦ୍ଧ କାର୍ଯ୍ୟକଳାପ ବାବଦରେ ପ୍ରମାଣ ସୃଷ୍ଟି କରିବାରେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ଏକ ଫଳପ୍ରସ୍ତୁତ ପଦ୍ଧତି ।

• **ତ୍ରିକୋଣ ବିଭାଜନ ପଦ୍ଧତି**

ଅଧିକାଂଶ ମାମଲାରେ କୌଣସି ଗୋଟିଏ ପ୍ରମାଣ ସମସ୍ୟାର କାରଣ ପ୍ରତିଷ୍ଠିତ କରାଇବାରେ ଏବଂ ନିୟନ୍ତ୍ରକ ସଂସ୍ଥା ପଦକ୍ଷେପ ନେବା ପାଇଁ ଯଥେଷ୍ଟ ନୁହେଁ । ଏପରି ମାମଲାରେ ଅତି କମ୍ରେ ତିନୋଟି ପ୍ରମାଣଦ୍ୱାରା ପ୍ରଭାବ ଏବଂ ଆଇନ୍‌ର ଖିଲାପ ମଧ୍ୟରେ ସଂଯୋଗ ପ୍ରତିଷ୍ଠା କରାଇବା ଉପଯୋଗୀ ସାବ୍ୟସ୍ତ ହୁଏ । ଉଦାହରଣ ସ୍ୱରୂପ, ଦୂଷିତ ଜଳ ନିଷ୍କାସନ ହେଉଥିବାର ଫଟୋ ସହ ନିୟନ୍ତ୍ରକ କର୍ତ୍ତୃପକ୍ଷ ପୂର୍ବରୁ ଜାରି କରିଥିବା କାରଣ ଦର୍ଶାଅ ନୋଟିସ୍ କିମ୍ବା ମଞ୍ଜୁରୀ ସର୍ତ୍ତାବଳୀ ଏବଂ ଏହା ସହିତ ଏହା ନିର୍ଦ୍ଦିଷ୍ଟ କାରଖାନାର କାର୍ଯ୍ୟକଳାପ ବୋଲି ଦର୍ଶାଉଥିବା ଗଣମାଧ୍ୟମର ବିବୃତିକୁ ସମ୍ମିଳିତ କରାଯାଇପାରିବ । ଯଦି ସରକାରୀ ନୋଟିସ୍ ଉପଲବ୍ଧ ନଥାଏ ତେବେ ଏହା କାରଖାନାଦ୍ୱାରା ହେଉଥିବା ଦୂଷିତଜଳ ନିଷ୍କାସନର ପ୍ରଭାବ ବୋଲି ସୂଚୀତ କରୁଥିବା ଅଧ୍ୟୟନକୁ ଏଥିରେ ଯୋଗାଯାଇପାରେ, ଯେଉଁ କ୍ଷେତ୍ରରେ ସ୍ୱଳ୍ପ ଆରୋପଣ ଏକ ଆହ୍ୱାନ ସେ କ୍ଷେତ୍ରରେ ତ୍ରିକୋଣ ବିଭାଜନ ପଦ୍ଧତି ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ।

କୌଣସି ଏକ ମାମଲା ପାଇଁ ସଂଗ୍ରହ କରାଯାଇଥିବା ସମସ୍ତ ତଥ୍ୟ ପ୍ରମାଣକୁ ସରକାର କିମ୍ବା ଯେ କୌଣସି ମଞ୍ଚରେ ଉପସ୍ଥାପନ ପୂର୍ବରୁ ଏସବୁକୁ ପ୍ରାସଙ୍ଗିକତା ଓ ବିଶ୍ୱାସନୀୟତାର କର୍ଷିତ ପଥରେ ପରୀକ୍ଷା କରିବା ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକମାନଙ୍କର ଏକ ପ୍ରତିଷ୍ଠିତ ପଦ୍ଧତି ।

Annexure 2

THE INDIAN LEGAL SYSTEM

1. Historical Roots:

The Indian Legal System is based on the Common Law system.

- The Common Law System:**

Judicial Pronouncements are based on pre-existing legal precedents set by competent courts of law.

2. Sources of Law:

- Primary Sources of Law: The law as is laid down in the statute.
- Secondary Sources of Law: Interpretation of the law done by way of judgments.

3. Subject matters under Indian Law:

- Civil
- Criminal

	Civil	Criminal
Parties involved	Harm between two parties	Offence against the State, the State being the prosecutor.
Mens rea (guilty mind)	Not required	Required
Standard of proof	Balance of probability	Beyond reasonable doubt
Remedies	Liable to-injustice relief, compensation	Guilty-imprisonment, criminal fine to state

4. Frequently Asked Questions:

- Where to go?**

Jurisdiction: The authority vested in a court of law to try and hear cases of a particular type and pertaining to a particular subject matter.

- Who can go?**

Locus standi: It refers to whether or not someone has a right to be heard in the court. It decides the question of who can file an a case in which forum.

- What is cause of action?**

Cause of action is the ground on which an action may be sustained.

ପରିଶିଷ୍ଟ ୨

ଭାରତୀୟ ଆଇନ୍ ବ୍ୟବସ୍ଥା

୧. ଐତିହାସିକ ଉତ୍ସ

ଭାରତୀୟ ଆଇନ୍ ବ୍ୟବସ୍ଥା ସାର୍ବଜନୀନ ନ୍ୟାୟ ବ୍ୟବସ୍ଥା ଉପରେ ଆଧାରିତ

- ସାର୍ବଜନୀନ ନ୍ୟାୟ ବ୍ୟବସ୍ଥା

ଅଦାଲତ ନିଷ୍ପତ୍ତି ସମ୍ପର୍କ ଆଇନ୍ ବିଚାରାଳୟ ଦ୍ୱାରା ପ୍ରତିଷ୍ଠିତ ପୂର୍ବ ପରିଦୃଷ୍ଟ ନ୍ୟାୟିକ ଦୃଷ୍ଟାନ୍ତ ଆଧାରିତ ।

୨. ଆଇନ୍‌ର ଉତ୍ସ

- ଆଇନ୍‌ର ପ୍ରାଥମିକ ଉତ୍ସ - ଆଇନ୍ ଯାହା ବୈଧାନିକ ଅନୁମୋଦନ ଦ୍ୱାରା ପ୍ରଣୟନ ହୋଇଛି
- ଆଇନ୍‌ର ଦ୍ୱିତୀୟ ଉତ୍ସ - ବିଚାରାଳୟର ନିଷ୍ପତ୍ତି ଦ୍ୱାରା ଆଇନ୍‌ର ବାଖ୍ୟା

୩. ଭାରତୀୟ ଆଇନ୍‌ର ବିଷୟବସ୍ତୁ

- ଦେଶ୍ୱାନୀ
- ଫୋକଦାରୀ

	ଦେଶ୍ୱାନୀ	ଫୋକଦାରୀ
ସଂଶ୍ଳିଷ୍ଟ ପକ୍ଷ	ଦୁଇପକ୍ଷ ମଧ୍ୟରେ କ୍ଷତି/ହାନ	ରାଷ୍ଟ୍ର ବିରୁଦ୍ଧରେ ବେଆଇନ୍ କାର୍ଯ୍ୟ, ରାଷ୍ଟ୍ର ମକଦ୍ଦମାର ବାଦୀପକ୍ଷ
ଅପରାଧି ମନୋଭାବ	ଆବଶ୍ୟକ ନାହିଁ	ଆବଶ୍ୟକ
ପ୍ରମାଣର ମାନକ	ସମ୍ଭାବ୍ୟତାର ସମତୁଲ୍ୟତା	ଯୁକ୍ତିଯୁକ୍ତ ସଂଶୟ ବହିର୍ଭୂତ
ପ୍ରତିକାର	ଅନ୍ୟାୟ ହେତୁ ଯତ୍ନଶୀଳ ଉପଶମ ପାଇଁ ଉତ୍ତରଦାୟୀ, କ୍ଷତିପୂରଣ	ଦୋଷୀ ଦଣ୍ଡାଦେଶ, ରାଷ୍ଟ୍ରକୁ ଅପରାଧ ପାଇଁ ଅର୍ଥ କୋରିମାନ

୪. ବାରମ୍ବାର ପଚରାଯାଉଥିବା ପ୍ରଶ୍ନ

- କେଉଁଠିକୁ ଯିବାକୁ ହେବ?**

ବିଧିସଙ୍ଗତ କ୍ଷମତା ବା ଅଧିକାର: ଆଇନ୍ ଅଦାଲତକୁ ନିର୍ଦ୍ଦିଷ୍ଟ ବିଷୟବସ୍ତୁ ସମ୍ପର୍କୀୟ ନିର୍ଦ୍ଦିଷ୍ଟ ପ୍ରକାର ମକଦ୍ଦମାର ଅନୁସନ୍ଧାନ ଓ ଶୁଣାଣିର କ୍ଷମତା ପ୍ରଦାନ କରାଯାଇଛି ।

- କିଏ ସେଠାକୁ ଯାଇପାରିବ?**

ହସ୍ତକ୍ଷେପର ଅଧିକାର: ଏହା ଅଦାଲତରେ କଣ୍ଠକର ମକଦ୍ଦମା ଶୁଣାଣି ପାଇଁ ଆବେଦନ କରିପାରିବାର ଅଧିକାର ଅଛି କି ନାହିଁ ସେ ସମ୍ପର୍କିତ । ଏହା କିଏ କେଉଁ ନ୍ୟାୟପୀଠରେ ମକଦ୍ଦମା ରୁଜୁ କରିପାରିବେ ସେ ପ୍ରଶ୍ନର ସମାଧାନ କରେ ।

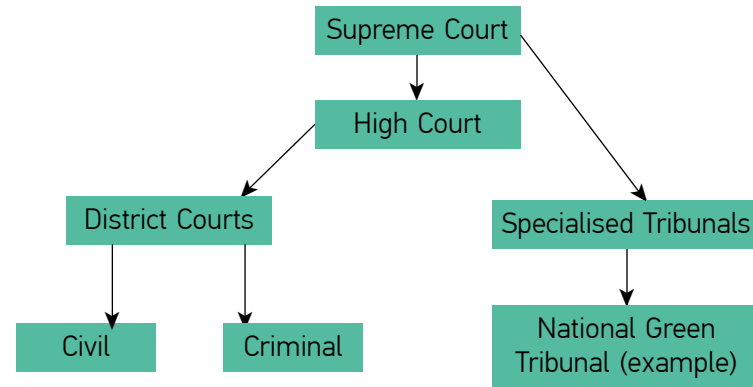
- ମକଦ୍ଦମାର ଯଥାର୍ଥତା କଣ ?**

ମକଦ୍ଦମାର ଯଥାର୍ଥତା ହେଉଛି ସେହି ଭିତ୍ତିଭୂମି ଯାହା ମକଦ୍ଦମାକୁ ସମର୍ଥନ କରିବ

5. Types of judicial forums in India:

- Courts
- Specialised Tribunals

6. Structure of Courts:



A. Civil Courts:

Hierarchy: Munsif's Court –Sub-ordinate Judge's Court---District Court—High Court—Supreme Court.

- When the value of the suit is less than Rs.1, 00,000: Suit will be filed with Munsif's Court
- Appeal from the Munsif's Court is filed before the District Court.
- When the value of the suit is more than Rs.1, 00,000: Suit shall be filed before the Sub-ordinate Judge's Court (Sub Court).
- Appeal from the Sub Court is filed before the District Court if the amount is less than Rs.2, 00,000.
- Appeal from Sub Court is filed before the High Court if the amount is more than Rs. 2, 00,000.

B. Criminal Courts:

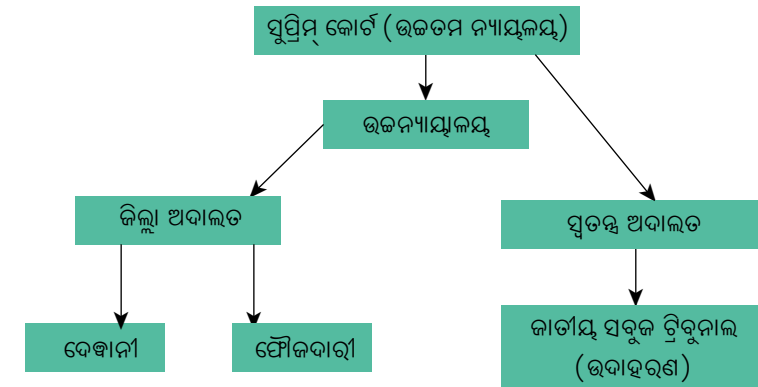
Hierarchy: Judicial Magistrate of the Second Class-- Judicial Magistrate of the First Class-- Chief Judicial Magistrate—Additional Sessions Judge—Sessions Judge—High Court—Supreme Court

- If the offence is punishable with imprisonment for a term not exceeding one year, or with fine not exceeding five thousand rupees, or with both, the jurisdiction lies with the Judicial Magistrate of the Second Class.
- If the offence is punishable with imprisonment for a term not exceeding three years or with fine up to ten thousand rupees, jurisdiction lies with the Judicial Magistrate of the First Class.

୪. ଭାରତରେ ନ୍ୟାୟିକ ବିଚାରାଳୟର ପ୍ରକାର ଭେଦ

- ବିଚାରାଳୟ
- ସ୍ୱତନ୍ତ୍ର ବିଚାରାଳୟ

୭. ଅଦାଲତର ଡାହାଣ



କ. ଦେୱାନୀ ଅଦାଲତ ବ୍ୟବସ୍ଥା

ସ୍ତରୀକୃତ ଡାହାଣ - ମୁନ୍ସିଫ୍ ଅଦାଲତ- ଅଧିକାର ବିଚାରପତିଙ୍କ ଅଦାଲତ- ଜିଲ୍ଲା ଅଦାଲତ ଉଚ୍ଚନ୍ୟାୟାଳୟ - ଉଚ୍ଚତମ ନ୍ୟାୟାଳୟ

- ଯଦି ପିଟିସନ୍ / ପ୍ରାର୍ଥନାପତ୍ରର ମୂଲ୍ୟ ୧ଲକ୍ଷ ଟଙ୍କାରୁ କମ୍ ହୋଇଥାଏ, ପିଟିସନ୍ ମୁନ୍ସିଫ୍ କୋର୍ଟରେ ଦାୟର ହେବ ।
- ମୁନ୍ସିଫ୍ କୋର୍ଟ ନିଷ୍ପତ୍ତିର ପୁନର୍ବିଚାର ପାଇଁ ଆବେଦନ ଜିଲ୍ଲା ଅଦାଲତରେ ଦାଖଲ ହେବ ।
- ଯଦି ପିଟିସନ୍ / ପ୍ରାର୍ଥନାପତ୍ରର ମୂଲ୍ୟ ୧ଲକ୍ଷ ଟଙ୍କାରୁ ଅଧିକ ହୋଇଥାଏ - ପିଟିସନ୍ ଅଧିକାର ବିଚାରପତିଙ୍କର ଅଦାଲତରେ ଦାୟର ହେବ ।
- ଯଦି ପିଟିସନ୍ ମୂଲ୍ୟ ୨ଲକ୍ଷ ଟଙ୍କାରୁ କମ୍ ହୋଇଥାଏ ତେବେ ଅଧିକାର କୋର୍ଟର ନିଷ୍ପତ୍ତିର ପୁନର୍ବିଚାର ପାଇଁ ଆବେଦନ ଜିଲ୍ଲା ଅଦାଲତରେ ଦାଖଲ ହେବ ।
- ଯଦି ପିଟିସନ୍ ମୂଲ୍ୟ ୨ଲକ୍ଷ ଟଙ୍କାରୁ ଅଧିକ ହୋଇଥାଏ ତେବେ ଅଧିକାର କୋର୍ଟର ନିଷ୍ପତ୍ତିର ପୁନର୍ବିଚାର ପାଇଁ ଆବେଦନ ଉଚ୍ଚନ୍ୟାୟାଳୟରେ ଦାଖଲ ହେବ ।

ଖ. ଫୌଜଦାରୀ ଅଦାଲତ ବ୍ୟବସ୍ଥା-

ସ୍ତରୀକୃତ ଡାହାଣ - ଦ୍ୱିତୀୟ ଶ୍ରେଣୀ ବିଚାର ବିଭାଗୀୟ ମାଜିଷ୍ଟ୍ରେଟ୍ - ପ୍ରଥମ ଶ୍ରେଣୀ ବିଚାର ବିଭାଗୀୟ ମାଜିଷ୍ଟ୍ରେଟ୍ - ମୁଖ୍ୟ ବିଚାର ବିଭାଗୀୟ ମାଜିଷ୍ଟ୍ରେଟ୍ ଅତିରିକ୍ତ ସେସନ୍ ଜଜ୍ - ସେସନ୍ ଜଜ୍- ଉଚ୍ଚନ୍ୟାୟାଳୟ - ଉଚ୍ଚତମ ନ୍ୟାୟାଳୟ ।

- ଯଦି ଅପରାଧପାଇଁ ଦଣ୍ଡବିଧାନ ୧ବର୍ଷ କାରାବାସୀରୁ କମ୍ ହୋଇଥାଏ, କିମ୍ବା ଅର୍ଥ କ୍ଷତିପାଣି ପାଞ୍ଚ ହଜାର ଟଙ୍କାରୁ କମ୍ ହୋଇଥାଏ କିମ୍ବା ଉଭୟ ତେବେ ମକଦ୍ଦମା ଦ୍ୱିତୀୟ ଶ୍ରେଣୀ ବିଚାର ବିଭାଗୀୟ ମାଜିଷ୍ଟ୍ରେଟ୍ଙ୍କର କ୍ଷମତା ପରିସରଭୁକ୍ତ ।
- ଯଦି ଅପରାଧ ପାଇଁ ଦଣ୍ଡବିଧାନ ୩ବର୍ଷ କାରାବାସୀରୁ କମ୍ ହୋଇଥାଏ, କିମ୍ବା ଅର୍ଥ କ୍ଷତିପାଣି ଦଶହଜାର ଟଙ୍କା ପର୍ଯ୍ୟନ୍ତ ହୋଇଥାଏ ତେବେ ମକଦ୍ଦମା ପ୍ରଥମ ଶ୍ରେଣୀ ବିଚାର ବିଭାଗୀୟ ମାଜିଷ୍ଟ୍ରେଟ୍ଙ୍କର କ୍ଷମତା ପରିସର ଭୁକ୍ତ ।

- If the offence is punishable with imprisonment for a term not exceeding 7 years, the Chief Judicial Magistrate shall have jurisdiction.
- If the offence is punishable with imprisonment for a term not exceeding 10 years, the Additional Session's Judge shall have jurisdiction.
- If the offence is punishable with imprisonment for a term exceeding 10 years, the Sessions Judge would have jurisdiction. However, a death sentence cannot be pronounced in this Court without confirmation by the High Court.

- ଯଦି ଅପରାଧ ପାଇଁ ଦଣ୍ଡବିଧାନ ୭ ବର୍ଷ କାରାବାସୀରୁ କମ୍ ହୋଇଥାଏ ତେବେ ମକଦ୍ଦମାର ବିଚାର ମୁଖ୍ୟ ବିଚାର ବିଭାଗୀୟ ମାଜିଷ୍ଟ୍ରେଟ୍‌ଙ୍କର କ୍ଷମତା ଅନ୍ତର୍ଭୁକ୍ତ ।
- ଯଦି ଅପରାଧ ପାଇଁ ଦଣ୍ଡବିଧାନ ୧୦ ବର୍ଷ କାରାବାସୀରୁ କମ୍ ହୋଇଥାଏ ତେବେ ମକଦ୍ଦମାର ବିଚାର ଅତିରିକ୍ତ ସେସନ୍ ଜଜ୍‌ଙ୍କର କ୍ଷମତା ଅନ୍ତର୍ଭୁକ୍ତ ।
- ଯଦି ଅପରାଧପାଇଁ ଦଣ୍ଡବିଧାନ ୧୦ ବର୍ଷ କାରାବାସୀରୁ ଅଧିକ ହୋଇଥାଏ ତେବେ ମକଦ୍ଦମାର ବିଚାର ସେସନ୍ ଜଜ୍‌ଙ୍କର କ୍ଷମତା ଅନ୍ତର୍ଭୁକ୍ତ କିନ୍ତୁ ଏହି ନ୍ୟାୟପୀଠ ଉଚ୍ଚନ୍ୟାୟାଳୟର ଅନୁମୋଦନ ବିନା ମୃତ୍ୟୁ ଦଣ୍ଡାଦେଶ ଦେଇପାରିବ ନାହିଁ ।

Forum	High Court and Supreme Court (through public interest litigation)	National Green Tribunal	Lokayuktas
Locus standi	Any public spirited Individual	Aggrieved person	Aggrieved person
Jurisdiction	The Supreme Court and High Court under Article 32 and 226 can hear petitions filed on matters of 'public interest'	Civil cases where a substantial question relating to the environment is involved and such question arises out of the implementation of Water (Prevention & Control of Pollution) Act 1974, Water Cess (Prevention & Control) Act 1977, Air (Prevention & Control of Pollution) Act 1981, Forest Conservation Act 1980, Biodiversity Act 2002, Public Insurance Liability Act 1991, Environment Protection Act 1986	Inquire into allegations of corruption against public functionaries
Remedies that can be provided	Injunctions, compensation, restitution of property etc	Compensation to victims, restitution of property etc	Public servant be asked to vacate office, initiate prosecution against the public servant, recommend to competent authority to take action etc

ନ୍ୟାୟ ପୀଠ	ଉଚ୍ଚତମ ନ୍ୟାୟାଳୟ ସୁପ୍ରିମ କୋର୍ଟ (ଜନସ୍ୱାର୍ଥ ମାମଲାରେ)	କ୍ଷତିଗ୍ରସ୍ତ ବ୍ୟକ୍ତି	କ୍ଷତିଗ୍ରସ୍ତ ବ୍ୟକ୍ତି
ହସ୍ତକ୍ଷେପର ଅଧିକାର	କଣେ ଗୋଷ୍ଠୀ ସଚେତନ ବ୍ୟକ୍ତି	ଅଭିଯୋଗୀ	ଅଭିଯୋଗୀ
ବିପିସଙ୍ଗତ କ୍ଷମତା ବା ଅଧିକାର	ଜନସ୍ୱାର୍ଥ ମାମଲାରେ ଉଚ୍ଚ ନ୍ୟାୟାଳୟ ଓ ଉଚ୍ଚତମ ନ୍ୟାୟାଳୟ ସାମ୍ବିଧାନର ଧାରା ୩୨ ଓ ୨୨୬ ଅନୁଯାୟୀ ଆବେଦନ ଶୁଣାଣି କରିପାରିବେ	ଦେବୀନି ମାମଲା ଯେଉଁଥିରେ କି ପରିବେଶ ସମ୍ପର୍କୀତ ଏତ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ନିଷ୍ପତ୍ତିର ବିଷୟ ସମ୍ବନ୍ଧରେ ଏବଂ ଏହି ବିବାଦ ଜଳ (ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଆଇନ୍ ୧୯୬୪, ଜଳସେଚ୍ ଆଇନ୍ ୧୯୬୭, ବାୟୁ (ପ୍ରଦୂଷଣ ନିବାରଣ ଓ ନିୟନ୍ତ୍ରଣ) ଆଇନ୍ ୧୯୮୧, ଜଙ୍ଗଲ ସଂରକ୍ଷଣ ଆଇନ୍, ୧୯୮୦, ଜୈବବିବିଧତା ଆଇନ୍ ୨୦୦୨, ପଶୁକ ଇନସୁରାନ୍ସ ଲାଇଭିଲିଟି ଆକଟ ୧୯୯୧, ପରିବେଶ ସୁରକ୍ଷା ଆଇନ୍ ୧୯୮୬ କାର୍ଯ୍ୟକାରୀ କରାଯିବା ବେଳେ ଉତ୍ପୁଜେ	ସରକାରୀ କର୍ମଚାରୀଙ୍କର ବିରୁଦ୍ଧରେ ଆଗତ ଦୁର୍ନୀତି ଅଭିଯୋଗର ତଦନ୍ତ ହୁଏ
ପ୍ରତିକାର/ପ୍ରତିବିଧାନ ବ୍ୟବସ୍ଥା	ନିଷେଧାଜ୍ଞା , କ୍ଷତିପୂରଣ ସମ୍ପତ୍ତି ପ୍ରତ୍ୟର୍ପଣ ଇତ୍ୟାଦି	କ୍ଷତିଗ୍ରସ୍ତଙ୍କୁ କ୍ଷତିପୂରଣ, ସମ୍ପତ୍ତି ପ୍ରତ୍ୟର୍ପଣ ଇତ୍ୟାଦି	ସରକାରୀ କର୍ମଚାରୀଙ୍କୁ ପଦପଦବୀ ଛାଡ଼ିବାକୁ ଆଦେଶ, ସରକାରୀ କର୍ମଚାରୀଙ୍କ ବିରୁଦ୍ଧରେ ମାମଲା ଦାୟର, ସମ୍ପତ୍ତି କର୍ତ୍ତୃ ପକ୍ଷଙ୍କୁ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ଗ୍ରହଣ ପାଇଁ ଆଦେଶ

Annexure 3



ground truthing

a note on methodology

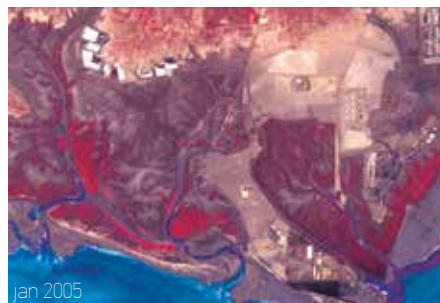
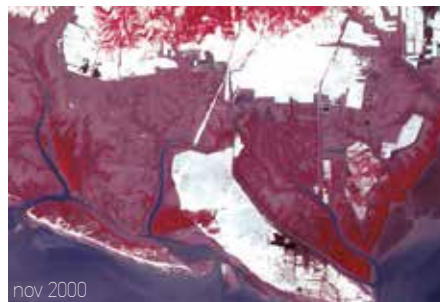
ପରିଶିଷ୍ଟ ୩



କ୍ଷେତ୍ରସ୍ଥିତ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ

ସତ୍ୟାପନ ପଦ୍ଧତିର ସଂକ୍ଷିପ୍ତ ବିବରଣୀ

legal empowerment
for environmental
compliance:
using the method of
groundtruthing



what is groundtruthing?

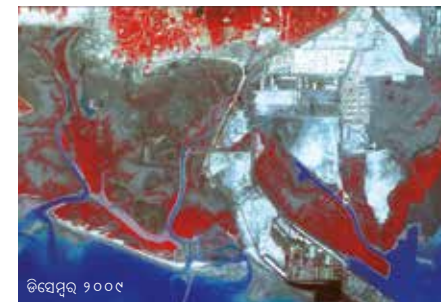
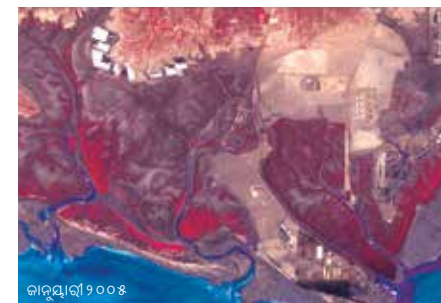
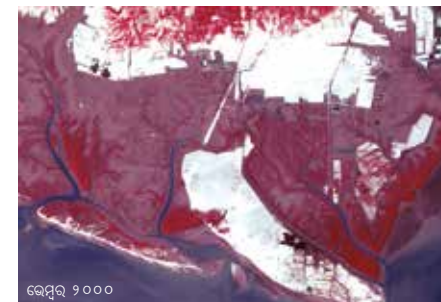
Groundtruthing broadly means to compare facts stated in official documents and maps with the ground realities at a site or in a place. As a method of physical verification of statements made on paper, groundtruthing can act as an effective tool to create evidence by collecting easily observable facts about operations that might be illegal, prohibited or causing harm. The evidence can be used in complaints directed to the relevant regulatory authority, appellate mechanism or judicial body. This method is useful for one-time investigations or the ongoing monitoring of impacts.

For instance, if an environmental approval or license of an industry states that effluents should not be discharged in a nearby river, photographic evidence with date/time/location details can be created to show if this specific condition is being complied with or not. Visual evidence can be prepared with photos taken at different times during a week to show the frequency/time table of discharge.

why is groundtruthing required?

In several countries, there are regulatory procedures in place for the setting up of industry and infrastructure projects. These procedures aim

କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ
ସତ୍ୟାପନ ମାଧ୍ୟମରେ
ପରିବେଶ ସମ୍ପର୍କୀୟ ସ୍ୱୀକାରୋକ୍ତିକୁ
ସୁନିଶ୍ଚିତ କରିବା ପାଇଁ ନ୍ୟାୟିକ
ସାକ୍ଷ୍ୟକରଣ ।



କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ କଣ ?

ମୋଟାମୋଟି ଭାବେ କହିବାକୁ ଗଲେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନର ଅର୍ଥ ସରକାରୀ ନଥିପତ୍ର ଏବଂ ନକ୍ସାରେ ଦର୍ଶାଯାଇଥିବା ତଥ୍ୟ ସହ ବାସ୍ତବ ତଥ୍ୟର ତୁଳନାତୁଳକ ବିଶ୍ଳେଷଣ । ନଥିରେ ଉଲ୍ଲେଖିତ ଉକ୍ତିର ଭୌତିକ ସତ୍ୟତା ନିରୂପଣ ପାଇଁ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ପଦ୍ଧତିର ପ୍ରୟୋଗ କୌଣସି ବ୍ୟବସାୟ, ନିଷିଦ୍ଧ କିମ୍ବା କ୍ଷତିକାରକ କାର୍ଯ୍ୟକୁ ସହଜରେ ଦେଖିପାରିବା ଓ ଜାଣିପାରିବା ପାଇଁ ତଥ୍ୟାବଳୀର ସଂଗ୍ରହ ଦ୍ୱାରା ଉଦ୍ଦେଶ୍ୟ କରାଯାଏ ଏକ ଫଳପ୍ରସୂତ ହୁଏ । ଏହାଦ୍ୱାରା ପ୍ରସ୍ତୁତ ପ୍ରମାଣ ବା ସାକ୍ଷ୍ୟକୁ ନିୟମକ କର୍ତ୍ତୃପକ୍ଷ, ଅପିଲ ବ୍ୟବସ୍ଥା କିମ୍ବା ବିଚାରାଳୟରେ ଆପଣା ଅଭିଯୋଗ କରିବା ପାଇଁ ବ୍ୟବହାର କରାଯାଇପାରେ । ଏହି ପଦ୍ଧତି ଏକ ନିଦିଷ୍ଟ ଅନୁସନ୍ଧାନ କିମ୍ବା ପ୍ରତିଫଳ ବା ପ୍ରତ୍ୟାବର୍ତ୍ତନ ନିୟମିତ ପର୍ଯ୍ୟବେକ୍ଷଣପାଇଁ ଉପଯୋଗୀ ।

ଉଦାହରଣ ସ୍ୱରୂପ, ଯଦି କୌଣସି କାରଖାନାକୁ ଏହା ତାହାର ବର୍ଜ୍ୟବସ୍ତୁ ଏହାର ନିକଟରେ ପ୍ରବାହିତ ନଦୀକୁ ନ ଛାଡ଼ିବା ସର୍ତ୍ତରେ ପରିବେଶ ମଜ୍ଜୁରୀ ନିଳିଆଏ ତେବେ ତାରିଖ/ ସମୟ/ ସ୍ଥାନ ବିଷୟକ ତଥ୍ୟ ସମ୍ବଳିତ ଫଟୋ ଦ୍ୱାରା କାରଖାନାଟି ଏହି ବିଶେଷ ସର୍ତ୍ତକୁ ପାଳନ କରୁଛି କି ନାହିଁ ତାହା ଦର୍ଶାଯାଇପାରିବ । ଆହୁରି ମଧ୍ୟ ବିଭିନ୍ନ ସମୟରେ ଉଠାଯାଇଥିବା ଫଟୋ ମାଧ୍ୟମରେ ଏକ ସପ୍ତାହ ମଧ୍ୟରେ କେତେ ଥର ଏବଂ କେଉଁ ସମୟରେ କାରଖାନା ବର୍ଜ୍ୟବସ୍ତୁ ନଦୀକୁ ନିର୍ଗମନ କରୁଛି ତାହାର ଏକ ତାଲିକା ପ୍ରମାଣ ପ୍ରସ୍ତୁତ କରାଯାଇପାରିବ ।

କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ କାର୍ଯ୍ୟକ୍ରମ ଆବଶ୍ୟକ ?

ବିଭିନ୍ନ ଦେଶରେ କାରଖାନା ଓ ଉଦ୍ଭିଦ୍ଧାନ ପ୍ରକଳ୍ପ ପାଇଁ ନିୟମକ କାର୍ଯ୍ୟପଦ୍ଧତି ପ୍ରସ୍ତୁତ କରାଯାଇଅଛି । ଏହିସବୁ ପ୍ରକଳ୍ପର ସାମାଜିକ ଓ

to reduce or mitigate the environmental and social impacts of these projects. This is done through a system of conditional approvals or by binding the project to a list of mandatory safeguards that are to be implemented by them. Groundtruthing is required to assess if these conditions and safeguards are being complied with and resulting in better outcomes.

There are also MoUs (Memorandum of Understanding), lease agreements and contracts that are agreed upon and signed between a project developer, governments and communities. These documents may also contain several commitments made by various parties. Groundtruthing is useful to monitor if these commitments are being upheld and to what effect.

who can groundtruth?

The groundtruthing method can be used at three different levels:

- **Public spirited individual or small teams:** E.g. environmental or rights based organisations along with key local “informants”.
- **Group of Community representatives:** E.g. affected people or village council members.
- **Legal Empowerment/Paralegal programs for Environmental Justice (EJ):** E.g. affected communities with paralegals collect evidence of impacts and seek remedies.

at what stage to groundtruth?

- **Pre approval:** To confirm the facts and baselines presented to obtain approvals E.g. Environment Impact Assessment report and compliance with consent provisions.
- **During construction:** Corroborating the safeguards and conditions under which a project should be built. E.g. damages to households or sacred sites, dumping in rivers or agricultural

fields, construction of retaining walls, restricting encroachments and rehabilitation plans.

- **Post approval:** Monitoring the compliance of legal conditions of a license, approval and agreements even as operations are underway, E.g. preventing water pollution, safeguards related to transportation of raw materials, functional emission control devices and regulating withdrawal of groundwater.

what to groundtruth?

Identification of items for groundtruthing is an essential component of the method. The items need to be selected carefully. Some general principles, which could help with selection, include:

- **Availability of official data:** This method can be most effective when approval letters, impact assessment reports and safeguard plans are available to compare conditions with said impacts.
- **Access to site:** The method is also dependent on the possibility of access to the sites of impact to collect observable evidence like photographs, water samples, and GPS (Global Positioning System) coordinates.
- **Knowledge of institutional links:** The method also requires a person involved in evidence collection to have knowledge on the institution to which the proof will be presented. Different institutions might require their own formats or stringency of evidence types and complaints.
- **Multiple evidence:** It is best to groundtruth those statements for which multiple pieces of evidence can be provided. A thumb rule to persuade a regulatory agency or remedial body is to collect three pieces of evidence per violation, illegality or impact. This is called triangulation. E.g. a photograph of effluent discharge can be supported by an earlier show-cause notice of a regulatory agency or an approval condition along with media reports attributing the action to particular activity/agency/project.

ପରିବେଶ କୁପ୍ରଭାବର ପ୍ରଶମନ ନିୟନ୍ତ୍ରଣ ବ୍ୟବସ୍ଥାର ଉଦ୍ଦେଶ୍ୟ । ଏହା ପ୍ରକଳ୍ପକୁ ସର୍ତ୍ତମୂଳକ ମଞ୍ଜୁରୀ ପ୍ରଦାନ କିମ୍ବା ପ୍ରକଳ୍ପଠାରୁ କେତେକ ବାଧ୍ୟତାମୂଳକ ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା ଅନୁପାଳନ ନିମନ୍ତେ ଆଇନତଃ ରୁକ୍ତି ଆଦାୟ ଦ୍ୱାରା ଲାଗୁ କରାଯାଇଥାଏ । ନିର୍ଦ୍ଧାରିତ ସର୍ତ୍ତ ଏବଂ ସୁରକ୍ଷା ବ୍ୟବସ୍ଥାର ଅନୁପାଳନ ଏବଂ ତତ୍ପୂର୍ବକ ଆଶାନ୍ୱରୁପ ଫଳାଫଳର ଆକଳନ ପାଇଁ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ଆବଶ୍ୟକ ।

ଆହୁରି ମଧ୍ୟ ପ୍ରକଳ୍ପ ସଂସ୍ଥାପକ, ସରକାର ଓ କନଗୋଷ୍ଠୀ ମଧ୍ୟରେ ପ୍ରକଳ୍ପ ପ୍ରତିଷ୍ଠା ପାଇଁ ଏମଓୟୁ, ଲିଜ୍ ବୁଝାମଣାପତ୍ର ଏବଂ ରୁକ୍ତିପତ୍ର ସ୍ୱାକ୍ଷରିତ ହୋଇଥାଏ । ଏହିସବୁ ରୁକ୍ତିପତ୍ର ସଂଶ୍ଳିଷ୍ଟ ବ୍ୟକ୍ତି କିମ୍ବା ବ୍ୟକ୍ତିସମୂହ ଦେଇଥିବା ପ୍ରତିଶ୍ରୁତି ବହନ କରେ । ପ୍ରତିଶ୍ରୁତି ଗୁଡ଼ିକ କିପରି ଓ କେତେମାତ୍ରାରେ ଅନୁପାଳନ କରାଯାଇଅଛି ତାହାକୁ ତଦାରଖ କରିବା ପାଇଁ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ସତ୍ୟାପନ ଅତ୍ୟନ୍ତ ବରକାରୀ ।

କିଏ କ୍ଷେତ୍ରସ୍ଥିତି ଆଧାରିତ ତଥ୍ୟ ସତ୍ୟାପନ କରିପାରିବେ ?

ତିନୋଟି ଭିନ୍ନସ୍ତରରେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ପଦ୍ଧତିକୁ ବ୍ୟବହାର କରାଯାଇପାରିବ ।

- **କନସେବା ଭାବପନ୍ଥ ବ୍ୟକ୍ତି କିମ୍ବା ବ୍ୟକ୍ତି ସମୂହ:** ଉଦାହରଣ ସ୍ୱରୂପ, ପରିବେଶ ସୁରକ୍ଷା ପାଇଁ କାମ କରୁଥିବା ଅନୁଷ୍ଠାନ କିମ୍ବା ଅଧିକାର ଭିତ୍ତିକ କାର୍ଯ୍ୟକ୍ରମ ଗ୍ରହଣ କରୁଥିବା ଏବଂ ଅଂଚଳର ପ୍ରମୁଖ ସୂଚନା ପ୍ରଦାନକାରୀ ।
- **ଗୋଷ୍ଠୀ ପ୍ରତିନିଧି ସମୂହ:** ଉଦାହରଣସ୍ୱରୂପ, ପ୍ରଭାବିତ ଜନ ସାଧାରଣ କିମ୍ବା ଗ୍ରାମ କମିଟି ସଦସ୍ୟ ।
- **ପରିବେଶ ନ୍ୟାୟ ସଂକ୍ରାନ୍ତୀୟ ନ୍ୟାୟିକ ସଶକ୍ତିକରଣ କାର୍ଯ୍ୟକ୍ରମ:** ଉଦାହରଣସ୍ୱରୂପ, ପ୍ରଭାବିତ ଜନସମୂହ ଆଇନ ସହାୟକଙ୍କର ସହ ମିଶି ପ୍ରମାଣ ବା ସାକ୍ଷ୍ୟ ସଂଗ୍ରହ କରିବା ଏବଂ ଏହାର ନିଦାନ ଖୋଜିବା ।

କେଉଁ ପର୍ଯ୍ୟାୟରେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ କରାଯାଏ ?

ମଞ୍ଜୁରୀ ପ୍ରଦାନ ପୂର୍ବ ପର୍ଯ୍ୟାୟ: ମଞ୍ଜୁରୀ ପାଇବାପାଇଁ ପ୍ରଦାନ କରାଯାଇଥିବା ତଥ୍ୟ ଏବଂ ଆଧାର ତଥ୍ୟାବଳୀର ଯଥା; ପରିବେଶ ପ୍ରଭାବ ଆକଳନ ରିପୋର୍ଟ ଏବଂ ରୁକ୍ତି ଅନୁପାଳନର ନିର୍ଭୁଲତା ପରୀକ୍ଷଣ ।

ନିର୍ମାଣ ସମୟ : ପ୍ରକଳ୍ପ ଅଗ୍ରଭୂକ୍ତି ସର୍ତ୍ତ ବା ସୁରକ୍ଷା ପ୍ରଦାନ ବ୍ୟବସ୍ଥା ପାଳନ କରାଯାଇଥିବାର ଅତିରିକ୍ତ ପ୍ରମାଣ ଯଥା: ଗୃହ କିମ୍ବା ଦେବସ୍ଥଳୀର ସ୍ଥିତି, ନଦୀ କିମ୍ବା ଚାଷ ଜମିରେ ଅଜିଆ ଗବା ନକରିବା, ପ୍ରକଳ୍ପ ବର୍ଜ୍ୟବସ୍ତୁକୁ ସୀମାବଦ୍ଧ କରିବା ପାଇଁ କାଢ଼ ନିର୍ମାଣ, ଅନୁପ୍ରବେଶ ସୀମାବଦ୍ଧତା ଏବଂ ଅଇଥାନ ଯୋଜନା ।

ଯୋଜନା ମଞ୍ଜୁରୀ ପ୍ରାପ୍ତି ପରବର୍ତ୍ତୀ ପର୍ଯ୍ୟାୟ : ପ୍ରକଳ୍ପ କାର୍ଯ୍ୟକାରୀ ହେବା ସମୟରେ ଲାଇସେନ୍ସ ସମ୍ପୂର୍ଣ୍ଣ ଓ ରୁକ୍ତି ଆଇନ ବିଷୟକ ସର୍ତ୍ତାବଳୀ ଅନୁପାଳନର ତଦାରଖ ଯଥା: ଜଳ ପ୍ରଦୂଷଣ ନିବାରଣ, କଞ୍ଚାମାଲ ପରିବହନ ସଂପର୍କିତ ପ୍ରଦୂଷଣ, ନିର୍ଗମନ ନିୟନ୍ତ୍ରଣ ଉପକରଣ କାର୍ଯ୍ୟକାରୀତା ଏବଂ ଭୂତଳ ଜଳ ନିଷ୍କାସନ ନିୟନ୍ତ୍ରଣ ।

କେଉଁ ବିଷୟରେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ କରାଯାଏ ?

ବିଷୟବସ୍ତୁ ନିର୍ଦ୍ଧାରଣ ଏହି ପଦ୍ଧତିର ଏକ ଆବଶ୍ୟକୀୟ ଉପାଦାନ । ବିଷୟଗୁଡ଼ିକର ତୟନ ସତର୍କତାର ସହ କରାଯିବା ଉଚିତ । ନିମ୍ନଲିଖିତ ମୁଖ୍ୟ ପ୍ରସଙ୍ଗଗୁଡ଼ିକ ବିଷୟ ତୟନରେ ଦୃଷ୍ଟି ଦେବା ଆବଶ୍ୟକ ।

ସରକାରୀ ତଥ୍ୟର ଉପଲବ୍ଧତା: ମଞ୍ଜୁରୀ ପତ୍ର, ପ୍ରଭାବ ଆକଳନ ରିପୋର୍ଟ ଏବଂ ସୁରକ୍ଷା ପ୍ରବନ୍ଧନ ଯୋଜନା ଉପଲବ୍ଧ ହେଲେ ବାସ୍ତବ ସ୍ଥିତି ଓ ଦର୍ଶାଯାଇଥିବା ପ୍ରଭାବ ମଧ୍ୟରେ ତୁଳନାତୁଳକ ବିଶ୍ଳେଷଣ ପାଇଁ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ପଦ୍ଧତି ଫଳପ୍ରଦ ସାବ୍ୟସ୍ତ ହୁଏ ।

ଅନୁଷ୍ଠାନ/ସଂସ୍ଥା ମଧ୍ୟରେ ଯୋଗସୂତ୍ରର ଜ୍ଞାନ : ପ୍ରମାଣ ବା ସାକ୍ଷ୍ୟ ସଂଗ୍ରହ କରୁଥିବା ବ୍ୟକ୍ତି କେଉଁ ସଂସ୍ଥାରେ ସାକ୍ଷ୍ୟ ବା ପ୍ରମାଣପ୍ରଦାନ କରାଯିବ ସେ ସମ୍ପର୍କରେ ଜାଣିଥିବା ଆବଶ୍ୟକ । ଭିନ୍ନ ଭିନ୍ନ ସଂସ୍ଥା ସ୍ୱପ୍ରସ୍ତୁତ ଫର୍ମାଟ କିମ୍ବା ନିର୍ଦ୍ଦିଷ୍ଟ ପ୍ରକାର ସାକ୍ଷ୍ୟ ଏବଂ ଅଭିଯୋଗ ପଦ୍ଧତିକୁ କଡ଼ାକଡ଼ି ଭାବେ ପାଳନ କରିଥାନ୍ତି ।

ବହୁବିଧସାକ୍ଷ୍ୟ : ଯେଉଁ ରୁକ୍ତି/ସର୍ତ୍ତ ସମ୍ବନ୍ଧରେ ଯେତେ ବହୁବିଧ ସାକ୍ଷ୍ୟ ପ୍ରସ୍ତୁତ କରାଯାଇପାରେ ତାହା କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ପାଇଁ ସେତେ ଅଧିକ ଉପଯୁକ୍ତ । ପ୍ରତ୍ୟେକ ଭଲ ସନ, ଅବୈଧତା ଓ ପ୍ରଭାବ ସମ୍ବନ୍ଧରେ ତିନୋଟି ପ୍ରମାଣ ବା ସାକ୍ଷ୍ୟ ସଂଗ୍ରହ କରିବା ପାଇଁ କୌଣସି ନିୟନ୍ତ୍ରଣ ସଂସ୍ଥା କିମ୍ବା ପ୍ରତିବିଧାନ ସଂସ୍ଥାକୁ ସାଧାରଣତଃ ପ୍ରବର୍ତ୍ତାଯାଇଥାଏ । ଯଥା : ବର୍ଜ୍ୟବସ୍ତୁ ନିର୍ଗମନର ଫଟୋ, ନିୟନ୍ତ୍ରଣ ସଂସ୍ଥା ପୂର୍ବରୁ ଦେଇଥିବା କାର୍ଯ୍ୟ ଦର୍ଶାଏ ନେବିସ୍ କିମ୍ବା ପ୍ରକଳ୍ପ ମଞ୍ଜୁରୀ ସର୍ତ୍ତାବଳୀ ତତସହିତ ଗଣମାଧ୍ୟମର ରିପୋର୍ଟ ହାତୀକି ଉପଯୋଗ କାର୍ଯ୍ୟକଳାପ ଏକ

groundtruthing as a process and outcome in legal empowerment?

Groundtruthing can be an important component in the process of legal empowerment as well as an outcome of imparting legal knowledge to communities. While implementing community paralegal programs related to social or environmental justice, the groundtruthing method can be used for collecting reliable and relevant evidence.

It is also possible to undertake this at a community level only if legal knowledge has been shared with them. It can be an exercise done to assess the effectiveness of legal trainings on environmental compliance. Community organisers and paralegals can include this method as part of their cases to seek remedies (see references below). It can be recommended as a method of monitoring of impacts by local government agencies and village councils.

for more information

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ନିର୍ଦ୍ଦେଶ ସଂସ୍ଥା ବା ପ୍ରକଳ୍ପର ବୋଲି ଅଭିହିତ କରୁଥିବ ସେ ସବୁର ଏକତ୍ର ଉତ୍ଥାପନ ।

ନ୍ୟାୟିକ ସଶକ୍ତିକରଣ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ଏକ ପ୍ରକ୍ରିୟା ଏବଂ ଫଳାଫଳ-

ନ୍ୟାୟିକ ସଶକ୍ତିକରଣ ପ୍ରକ୍ରିୟାରେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ଏକ ପ୍ରମୁଖ ଉପାଦାନ ତଥା ଜନଗୋଷ୍ଠୀଙ୍କୁ ଆଇନ ସଂପର୍କିତ ଜ୍ଞାନ ପ୍ରଦାନରେ ଏକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ଫଳାଫଳ । ସାମାଜିକ ଓ ପରିବେଶ ନ୍ୟାୟ ସଂପର୍କିତ ଗୋଷ୍ଠୀଗତ ଆଇନ ଭିତ୍ତିକ କାର୍ଯ୍ୟକ୍ରମରେ ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ପଦ୍ଧତି ନିର୍ଦ୍ଧାରଣ ଏବଂ ପ୍ରାସଙ୍ଗିକ ପ୍ରମାଣ ବା ସାକ୍ଷ୍ୟ ସଂଗ୍ରହରେ ବ୍ୟବହାର କରାଯାଇପାରେ । ଆଇନ ସମ୍ବନ୍ଧୀୟ ଜ୍ଞାନ ଜନଗୋଷ୍ଠୀ ମଧ୍ୟରେ ଆଲୋଚନା କରାଗଲେ ହିଁ ଗୋଷ୍ଠୀ ସ୍ତରରେ କ୍ଷେତ୍ରସ୍ଥିତି ତଥ୍ୟ ଆଧାରିତ ସତ୍ୟାପନ ପ୍ରକ୍ରିୟାକୁ ପ୍ରୟୋଗ କରାଯାଇପାରିବ । ପରିବେଶ ସୁରକ୍ଷା ଆଇନ୍ ସଂପର୍କିତ ପ୍ରଶିକ୍ଷଣ କାର୍ଯ୍ୟକ୍ରମର ଉପଯୋଗିତା ଆକଳନ ପାଇଁ ଏହାକୁ ଏକ ପ୍ରୟୋଗରୂପେ ଗ୍ରହଣ କରାଯାଇପାରିବ । ଗୋଷ୍ଠୀ ସଂଗଠନ ଓ ଗୋଷ୍ଠୀ ଆଇନ୍ ସହାୟକ ଏହି ପଦ୍ଧତିକୁ ଆଇନଗତ ପ୍ରତିବିଧାନ ବା କ୍ଷତିପୂରଣ ପାଇବା ପାଇଁ ମଧ୍ୟ ବ୍ୟବହାର କରିପାରିବେ । ଏହି ପଦ୍ଧତିକୁ ସ୍ଥାନୀୟ ସରକାରୀ ବିଭାଗ ଓ ଗ୍ରାମ କମିଟି ନିଜନିଜ ଅଂଚଳରେ ପ୍ରକଳ୍ପ ପ୍ରଭାବ ତଦାରଖ କରିବା ନିମନ୍ତେ ପ୍ରୟୋଗ କରିବା ପାଇଁ ସୁପାରିସ କରାଯାଇପାରେ ।

ଅଧିକ ଜାଣିବା ପାଇଁ

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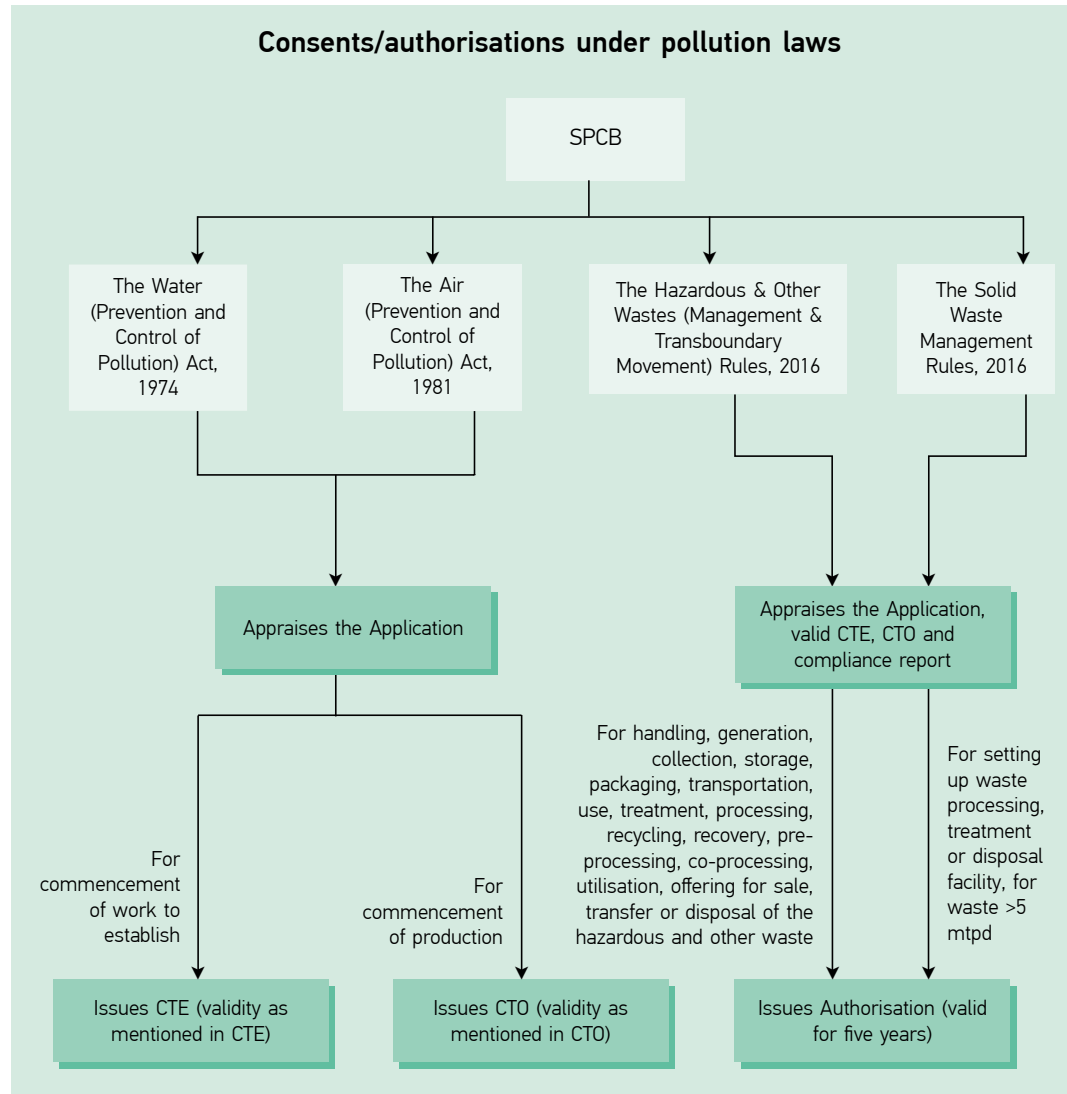
ସନ୍ଦର୍ଭ

- Closing the Enforcement Gap: Findings of a community-led groundtruthing of environmental violations in Mundra, Kutch (<https://namati.org/resources/closing-the-enforcement-gap-findings-of-a-community-led-ground-truthing-of-environmental-violations-in-mundra-kutch/>), 2013
- CPR-Namati Environmental Justice Case Tracking Form, 2015
- Handbook on Legal and Administrative Remedies for Community Level Environment Justice Practitioners (Version 1), February 2016 by CPR-Namati Environmental Justice Program
- Paralegal Practice Guide, Version 1.0 by CPR-Namati Environmental Justice Program (under finalisation)
- Calling the Bluff: Revealing the state of Monitoring and Compliance of Environmental Clearance Conditions by Kanchi Kohli and Manju Menon, Kalpavriksh, New Delhi/Pune

design: vani subramanian

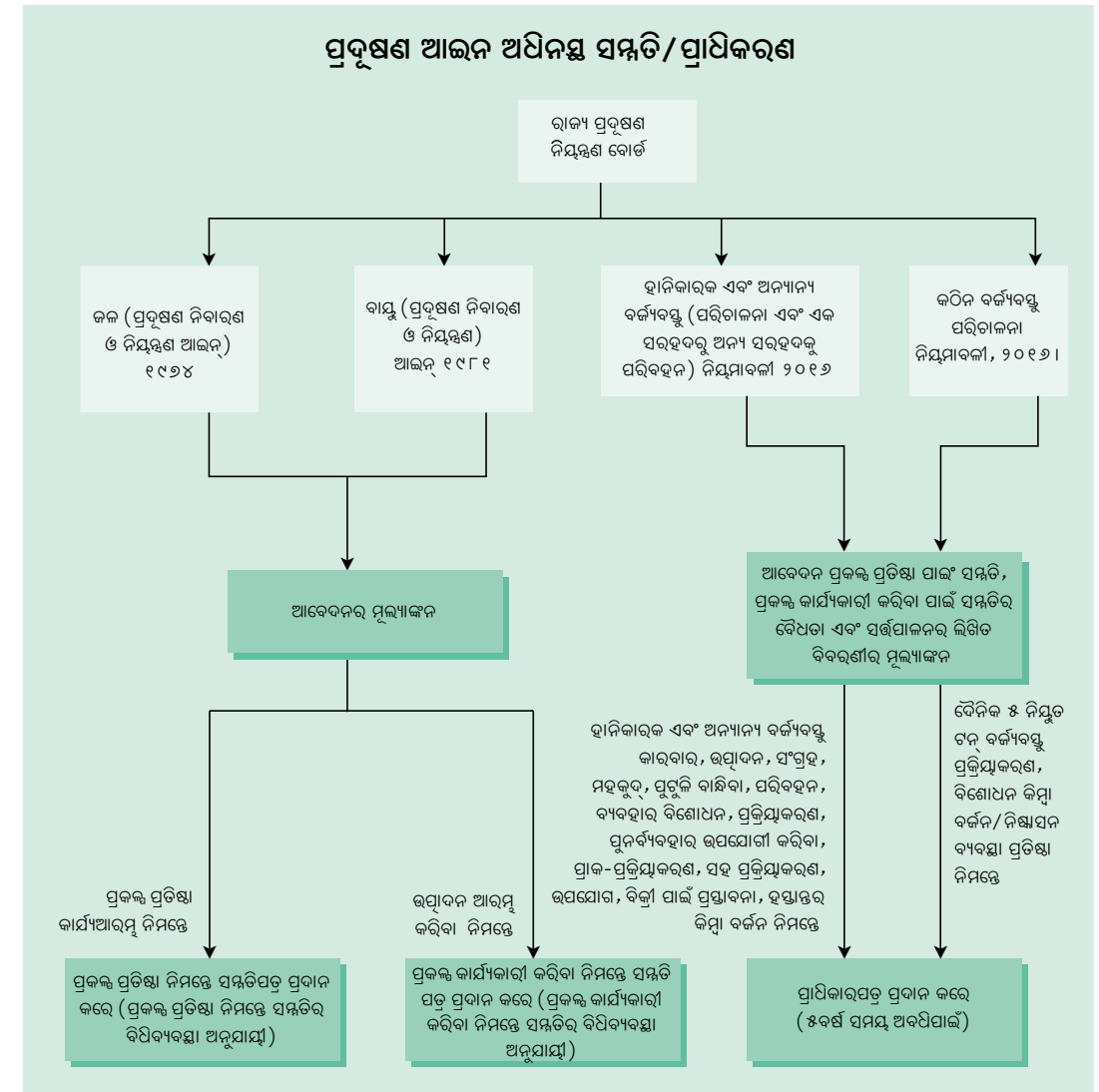
Annexure 4

INSTITUTIONAL MAPPING

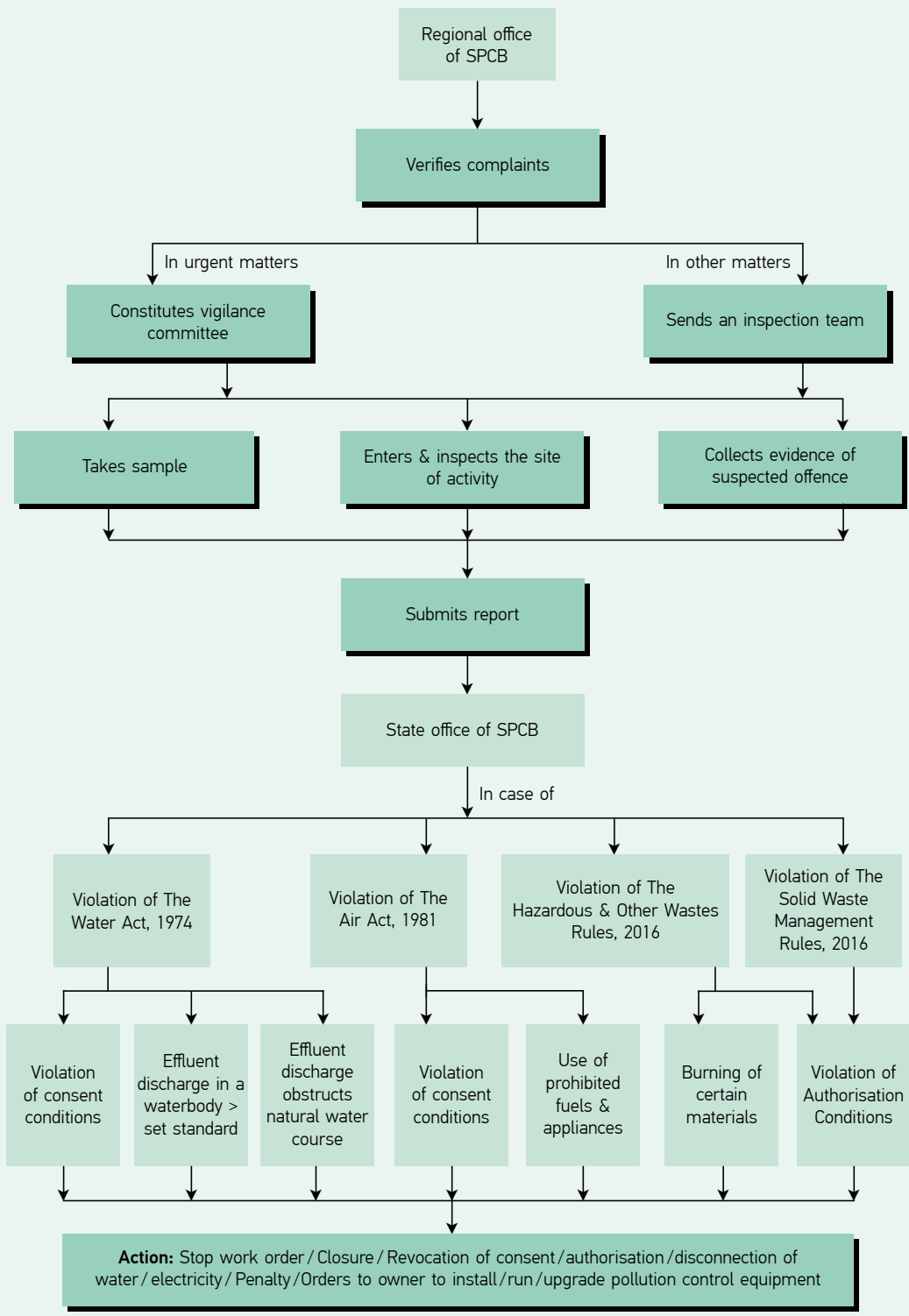


ପରିଶିଷ୍ଟ ୪

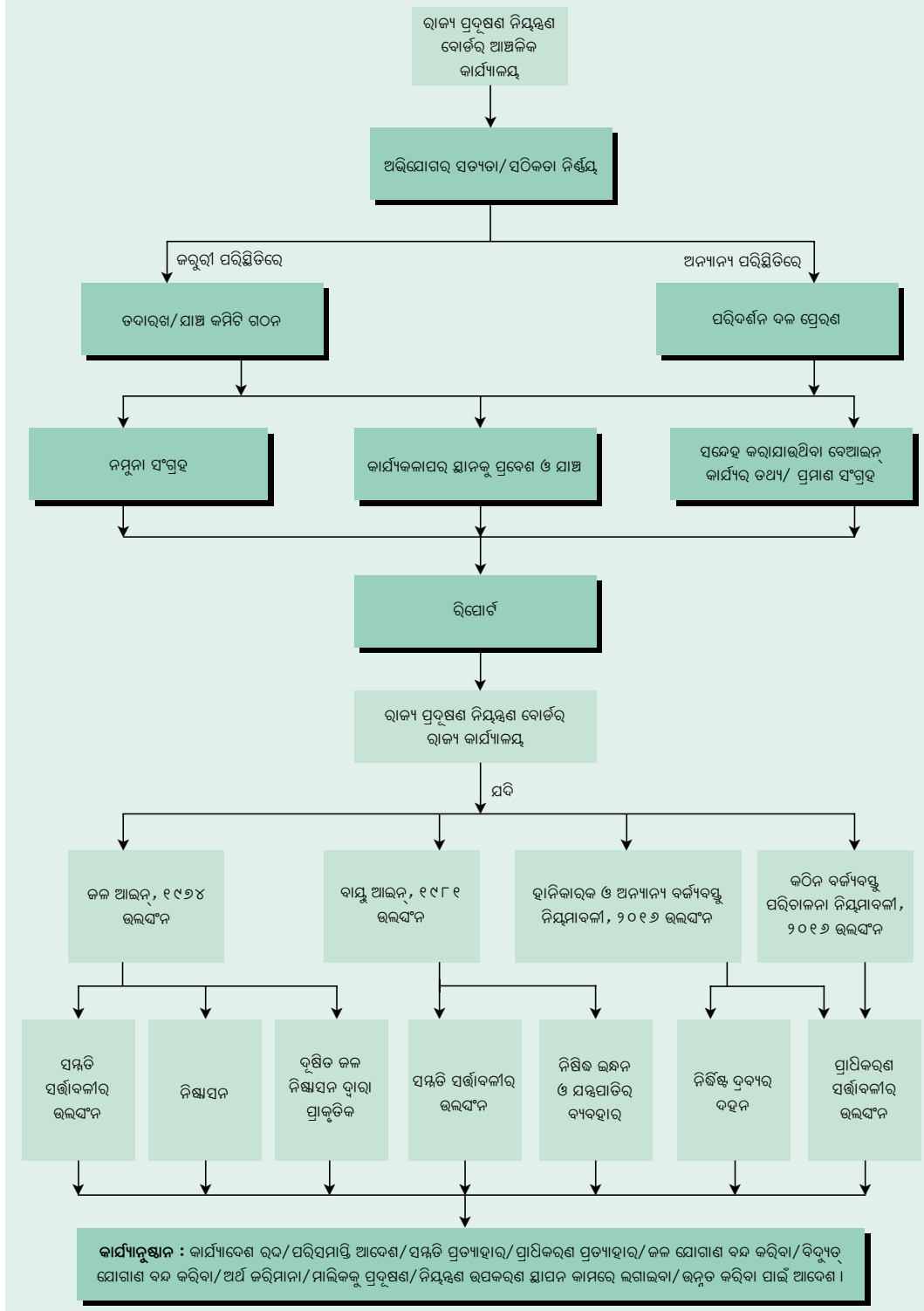
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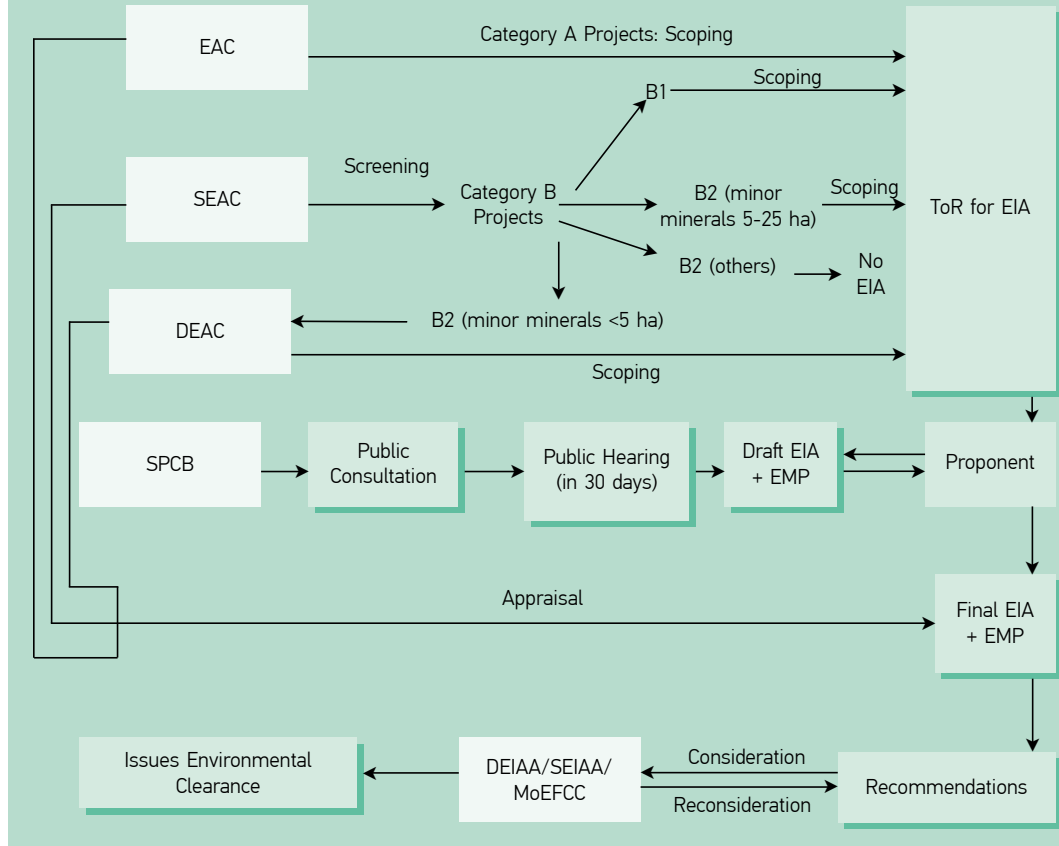
Monitoring and enforcement under pollution laws



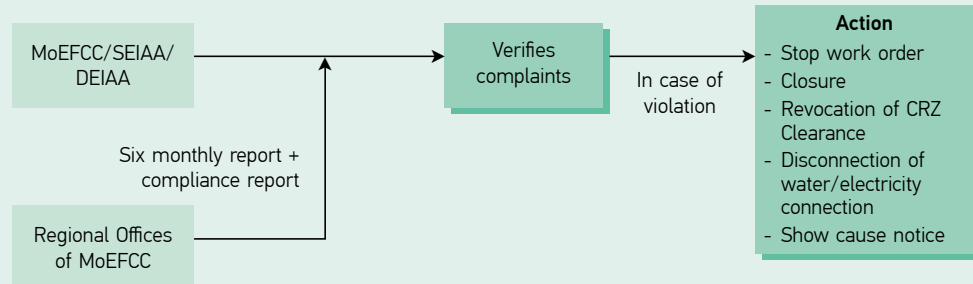
ପରିବେଶ ଆଇନ୍ ଅଧିନରେ ପର୍ଯ୍ୟବେକ୍ଷଣ ଓ ପ୍ରବର୍ତ୍ତନ



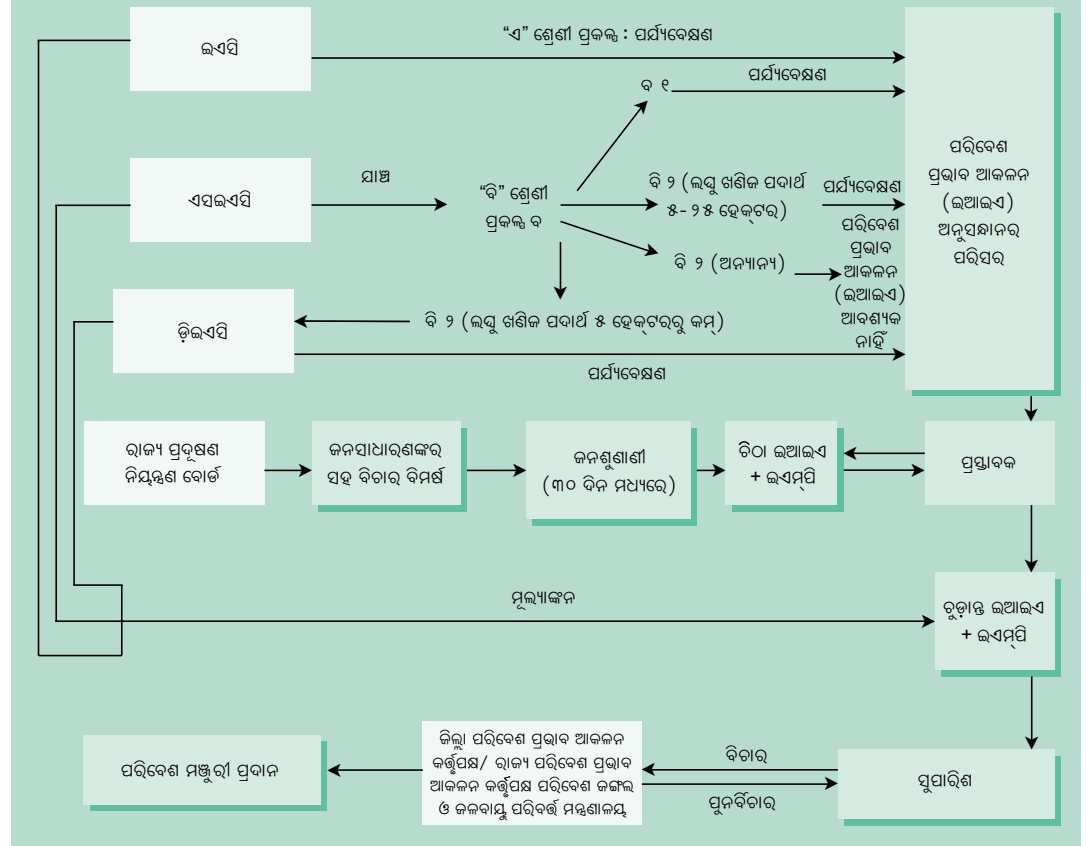
Clearance procedure under EIA Notification, 2006



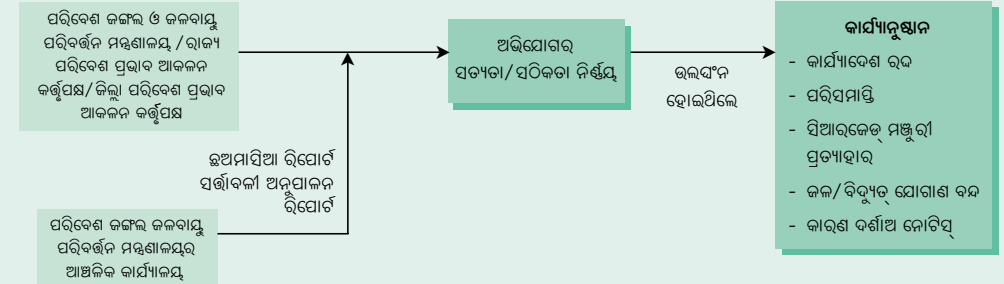
Monitoring and enforcement under EIA Notification, 2006

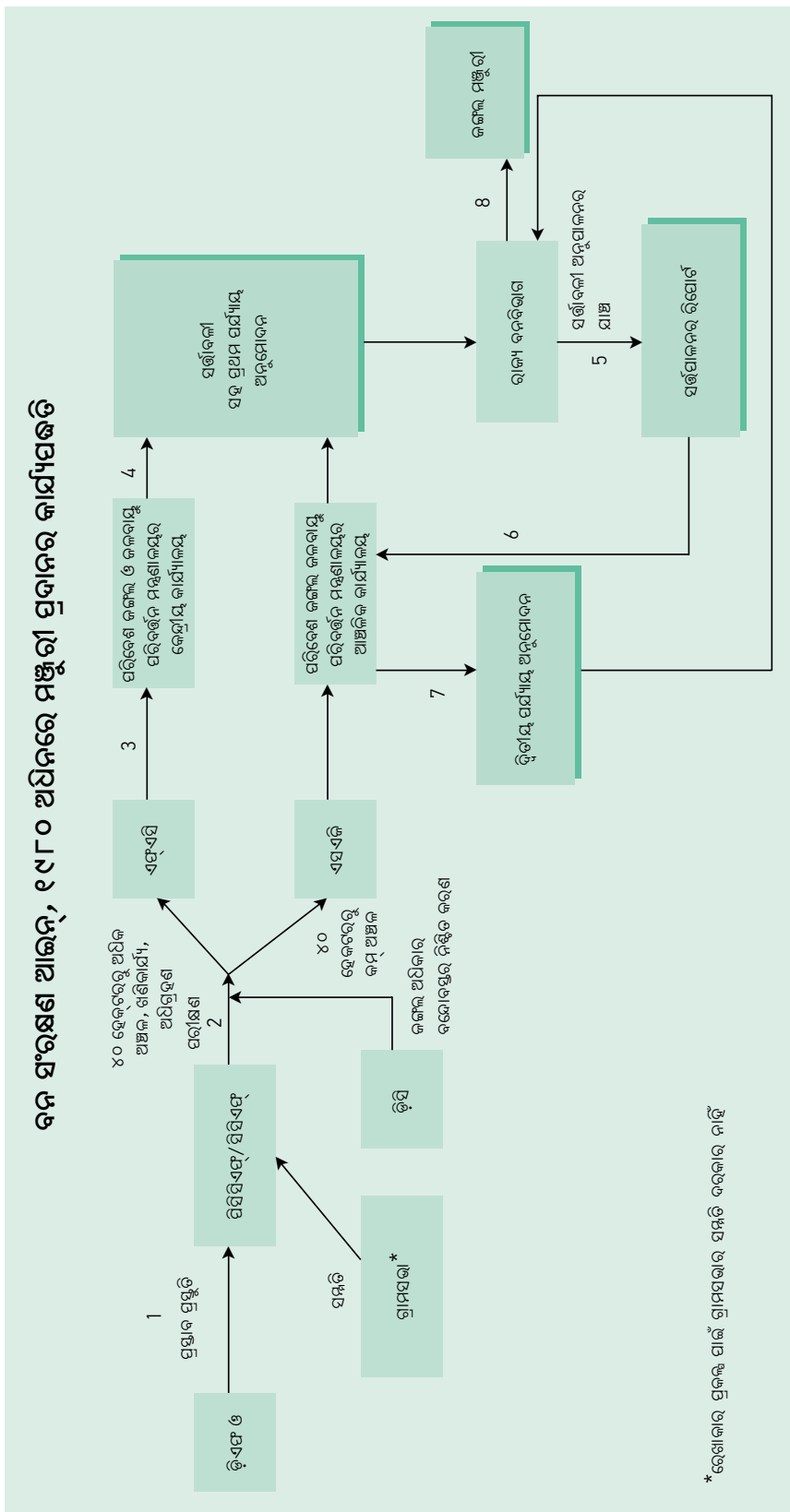
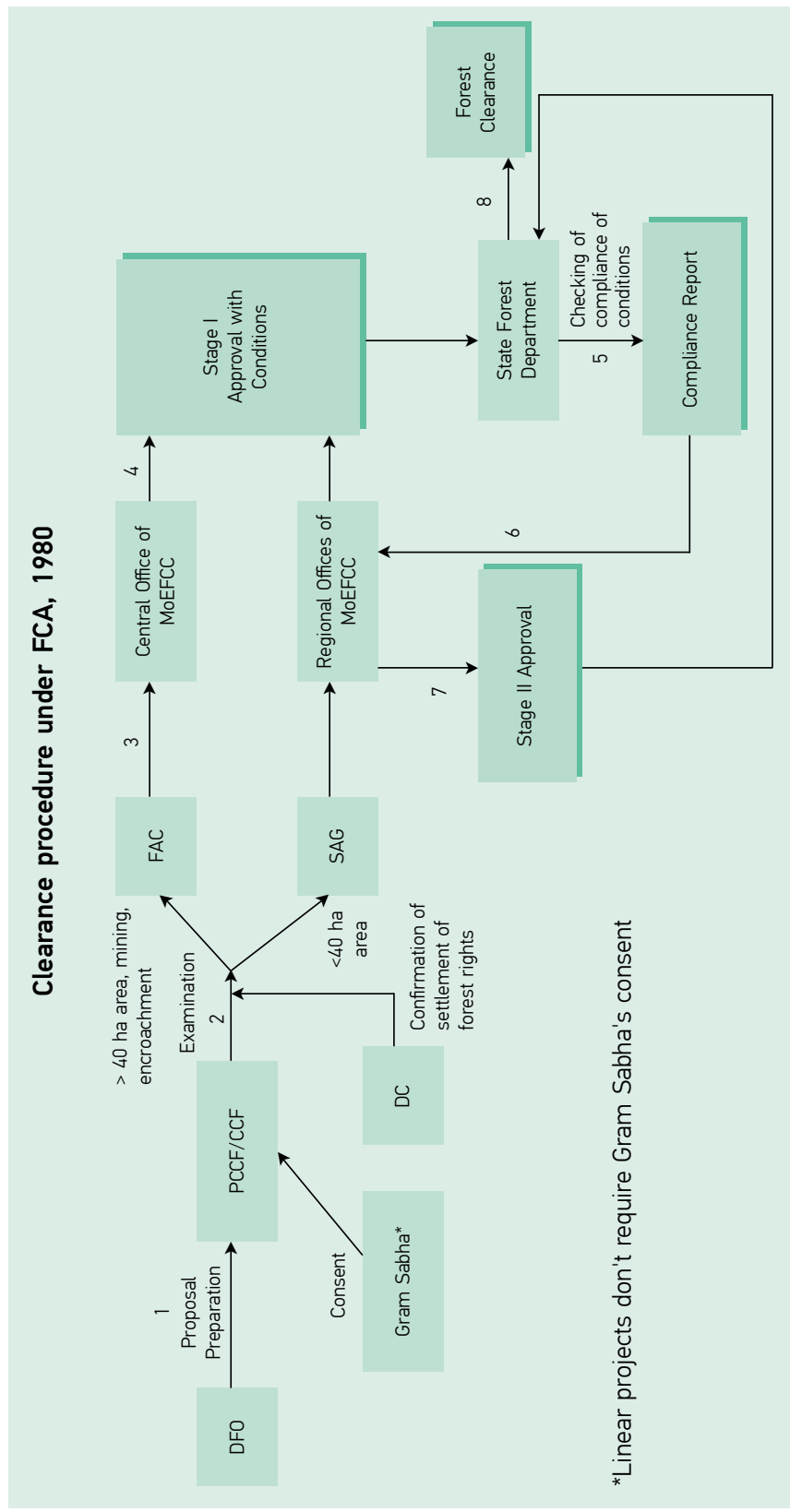


ଇଆଇଏ ନୋଟିଫିକେସନ୍ ୨୦୦୬ ଅଧିନରେ ଅନୁମତି ପ୍ରଦାନ କାର୍ଯ୍ୟପଦ୍ଧତି ।

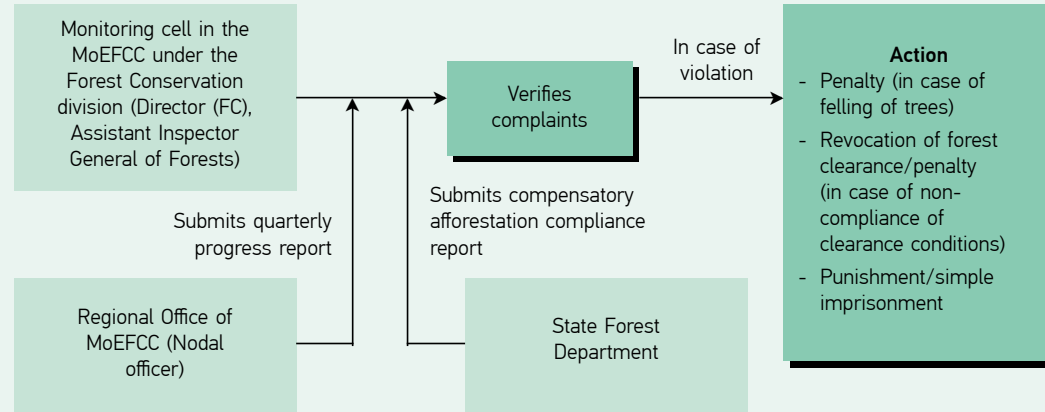


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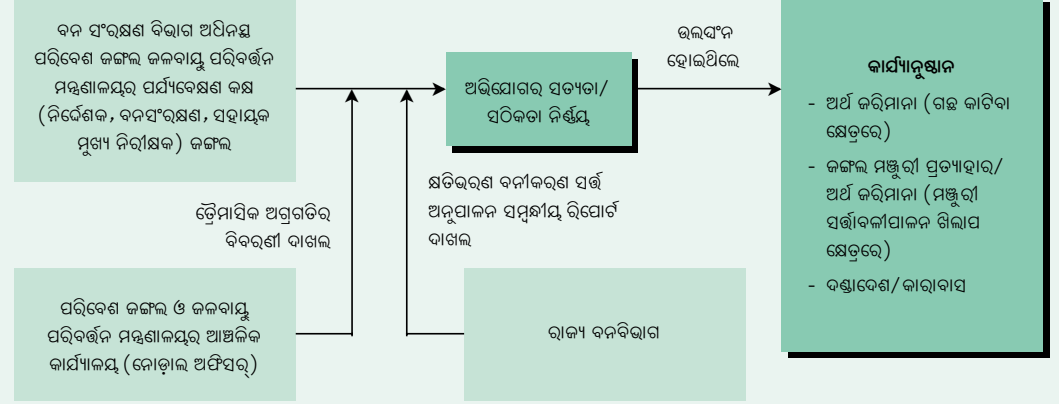




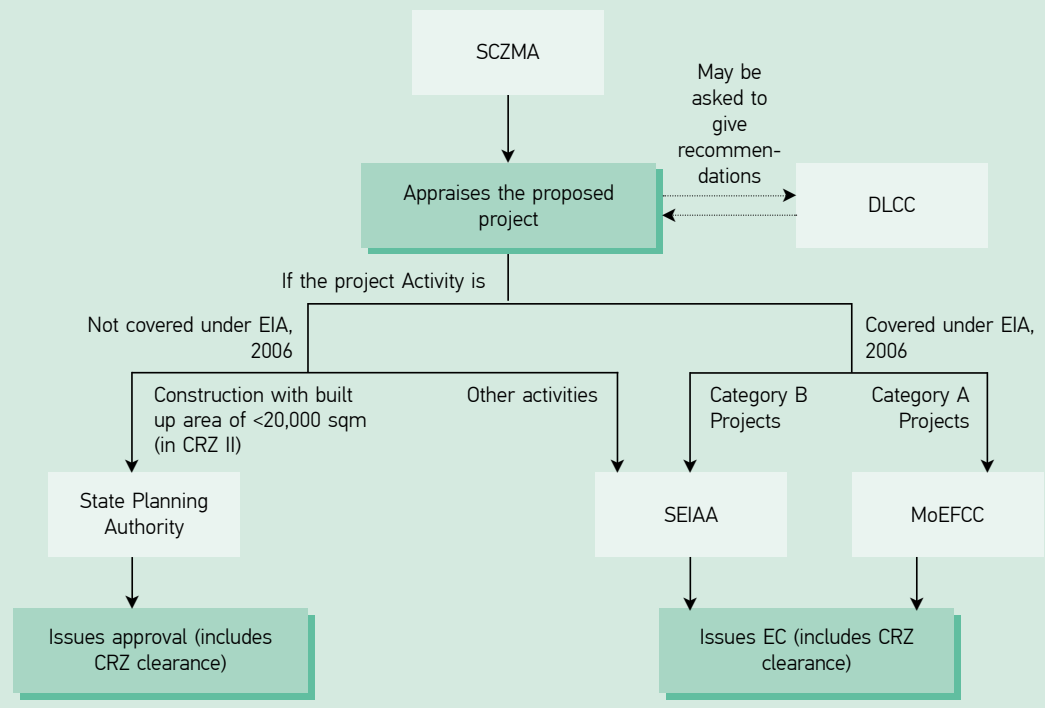
Monitoring and enforcement under FCA, 1980



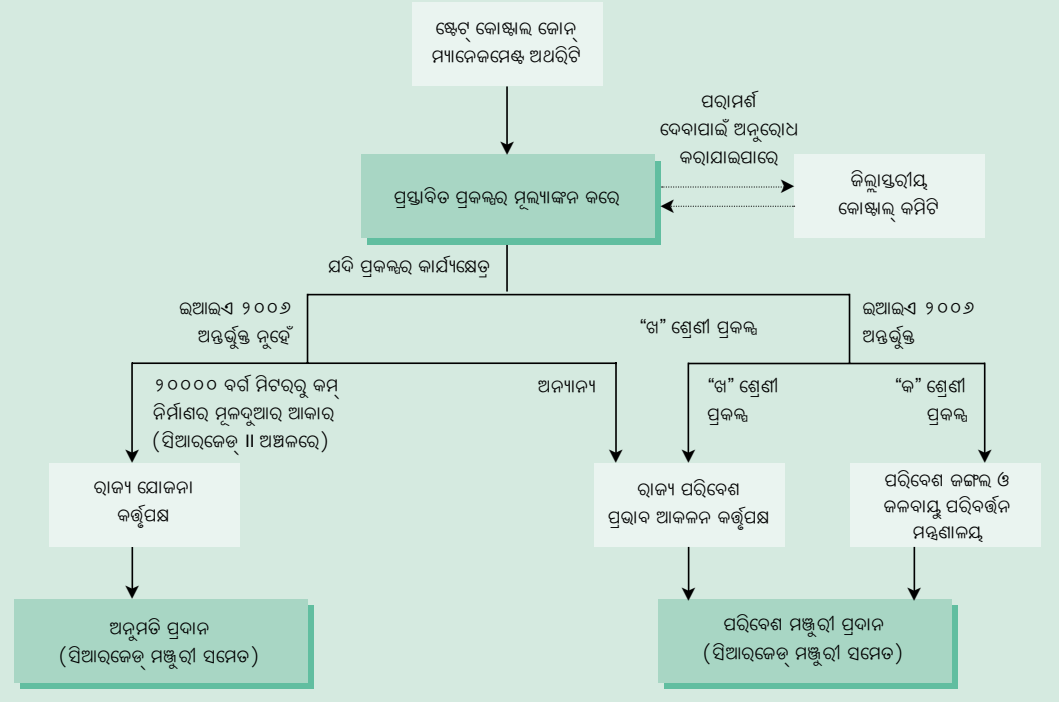
ବନ୍ୟ ସଂରକ୍ଷଣ ଆଇନ୍, ୧୯୮୦ ଅଧିନରେ ପର୍ଯ୍ୟବେକ୍ଷଣ ଓ ପ୍ରବର୍ତ୍ତନ



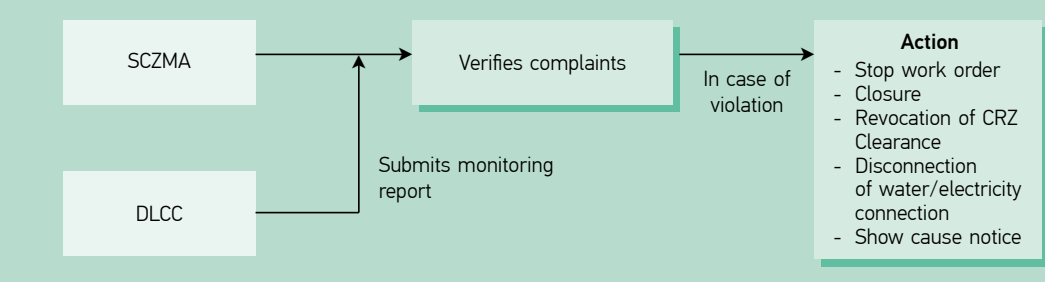
Clearance procedure under CRZ Notification, 2011



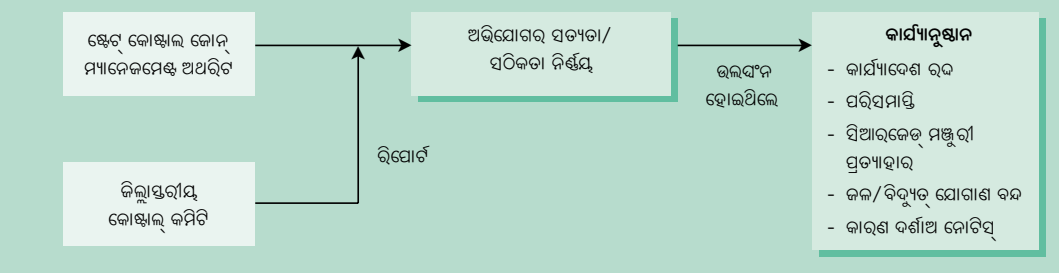
ସିଆରଜେଡ୍ ନୋଟିଫିକେସନ୍ - ୨୦୧୧ ଅଧିନରେ ଅନୁମତି ପ୍ରଦାନ କାର୍ଯ୍ୟପଦ୍ଧତି



Monitoring and enforcement under CRZ Notification, 2011



ସିଆରଜେଡ୍- ନୋଟିଫିକେସନ୍ ୨୦୧୧ ଅନୁସାରେ ଯାଞ୍ଚ ପ୍ରକ୍ରିୟା



Community level environment justice practitioners or grassroots environment paralegals use the legal empowerment approach to assist affected communities to seek legal remedies through an administrative route. This handbook is a guide to help them in the use of the legal clauses and institutional routes in this work. The handbook presents some scenarios that include problem types, the likely complaints the practitioner could come across and the legal clauses and institutions through which a remedy could be pursued for those complaints. The scenarios presented in the handbook are illustrative and draw from the several cases currently being piloted for remedies by the enviro-legal coordinators associated with the Centre for Policy Research- Namati Environmental Justice Program.

ଗୋଷ୍ଠିସ୍ତରରେ ପରିବେଶ ନ୍ୟାୟ ଉପରେ କାମ କରୁଥିବା ବ୍ୟକ୍ତି ବିଶେଷ ଏବଂ କ୍ଷେତ୍ରସ୍ତରରେ ପରିବେଶ ପାଇଁ ଦୃଶ୍ୟମୂଳକସ୍ତରୀୟ ପାରାଲିଗାଲ ସମୂହ ଗୋଷ୍ଠିସ୍ତରରେ ପ୍ରଭାବିତ ଲୋକଙ୍କୁ ଆଇନର ପରିଧିରେ ପ୍ରଶାସନିକ ମାଧ୍ୟମରେ ସମାଧାନ ପାଇଁ ଏହା ଏକ ମାଧ୍ୟମଭାବେ ବ୍ୟବହାର କରିଥାଆନ୍ତି, ଯାହାକି ଆଇନ ଶସ୍ତ୍ରକରଣ ଦୃଷ୍ଟିକୋଣରେ କାମ କରିଥାଏ । ଏହି ହ୍ୟାଣ୍ଡ ବୁକ୍ ରେ ଉପଯୋଗ ହେଉଥିବା ଆଇନର ପ୍ରାବଧାନ ଏବଂ ପ୍ରଶାଳା ଦିଆଯାଇଅଛି ଯାହାକି ଆଇନର ଧାରା ସହ ଆନୁଷ୍ଠାନିକ ପଥ ବ୍ୟବହାର ଦିଗରେ ସାହାଯ୍ୟ କରିଥାଏ । ଏଥିରେ କିଛି ଏଭଳି ଉଦାହରଣ ଦିଆଯାଇଅଛି ଯାହାକି ଅଲଗା ଅଲଗା ସମସ୍ୟା ଗୁଡ଼ିକ ପାରାଲିଗାଲ ଦିଗରେ ସାହାଯ୍ୟ କରିଥାଏ । ଏଥିରେ କିଛି ଏଭଳି ଉଦାହରଣ ଦିଆଯାଇଅଛି ଯାହାକି ଅଲଗା ଅଲଗା ସମସ୍ୟା ଗୁଡ଼ିକୁ ପାରାଲିଗାଲ ସମ୍ମୁଖିନ ହୋଇଛନ୍ତି ଏବଂ ଏହାର ଆଇନଗତ ସମାଧାନ ପାଇ ପାରିଛନ୍ତି । ଯେଉଁ ଛିତି ଏଥିରେ ଦିଆଯାଇଅଛି ଏହା ଉଦାହରଣ ଭାବେ ଦିଆଯାଇଅଛି, ଯାହାକି ସେକ୍ସର ଫାର୍ ପଲିସି ରିସର୍ଚ୍ ଏବଂ ନମତି ପରିବେଶ ନ୍ୟାୟ କାର୍ଯ୍ୟକ୍ରମରେ କଡ଼ିତ ପରିବେଶ କାନୁନ୍ ସମ୍ମୁଖୀୟ ସମାଧାନ ପାଇଁ ପ୍ରୟାସ କରି ରଖିଛି ।

