



Role of Corporate Social Responsibility in Controlling Global Warming

Ananya Bibave^{#1}

[#]Assistant Professor, P.E.S. Modern Law College, Ganeshkhind, Pashan Road, Pune-411016

e-mail : ¹ananyabibave.modernlaw@gmail.com

Abstract -

The new Companies Act, 2013 has brought in lot of innovative practices, one of which is the compulsory Corporate Social Responsibility Activity for companies which are having a net worth above a certain amount. This article is an attempt to correlate this Corporate Social Responsibility with the crucial issue of Global Warming and coming up with a practicable solution of the issue.

Keywords - Corporate Social Responsibility, Environment, Global Warming.

Introduction :

“We believe that the leading global companies of 2020 will be those that provide goods and services and reach new customers in ways that address the world’s major challenges - including poverty, climate change, resource depletion, globalization, and demographic shifts.” - Niall Fitzgerald, former CEO & Chairman Unilever¹

The corporations are utilizing the natural resources to make the end products but in turn giving back the environment the waste and emissions. Use of these products also leads to environmental degradation. This ecological imbalance should be taken care of by each and every corporation as one of their good business practice and at the same time to give a healthy environment to our society. The case of Bhopal Gas Leak which occurred on 3rd Dec, 1984 is no doubt a worst example of negligence in industrial sector. It is true that the Government of India is very much responsible for the disaster however the liability of the US based MNC in this above mentioned case cannot be overlooked. The liability of this parent company and the Indian Government were questioned in terms of their legality and morality. The ethical questions were also raised against them for running such

dangerous and hazardous industries without safeguarding the interest of the citizens.²

Many years after the Bhopal gas leak, the worst industrial disaster in history, it remains unclear who must bear legal responsibilities.³ Also, when oleum gas leaked from one of the units of Shriram Foods and Fertilizers Industry in Delhi in December 1985, The Supreme Court formulated the following two principles of:

- Absolute liability (where act of God and sabotage constitute the only exceptions) and
- Enterprise liability where the amount of compensation would depend upon the capacity of the industry.⁴

Right to life implies the right to live in pollution free and ecologically balanced environment. Whether the environment can really be protected these days when almost all the countries in South-East Asia are still developing? It is quite obvious that the development is achieved through industrialization, but at the same time we should not forget that the industrialization is the main cause of environmental degradation. To resolve this issue, the experts worldwide have come up with a doctrine called ‘Sustainable Development’, i.e. there must be balance between development and ecology.⁵

The concept of ‘Sustainable Development’ can be traced back as early as in 1972 in the Stockholm Conference. So it is not a new concept though it was given a definite shape in a report by World Commission on Environment and Development (WCED), which was known as ‘OUR COMMON FUTURE’. The commission, which was chaired by the then Norway Prime Minister, Ms. G.H. Brundtland defined “Sustainable Development” as:

“Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”.⁶ This concept was further discussed under



Agenda 21 of UN conference on environment and development held in June 1992 at Rio de Janeiro, Brazil.

Constitution of India is one of the very few constitutions in the world, which provides for specific provision for the protection and improvement of the environment. Articles: 21, 39(a), 39(b), 48, 51A of the Indian Constitution are worth mentioning.

Since 1972, India has been taking some concrete steps towards protection of environment as result of which, a mass of environmental legislations have evolved.

Chief Justice Bhagwati in *M.C. Mehta v. Union of India*⁷ declared in unambiguous terms that “we have to evolve new principles and lay down new norms, which would adequately deal with the new problems which arise in a highly industrialized economy. We no longer need the crutches of a foreign legal order”.

One of such principles and doctrines propounded by the Indian Judiciary is⁸ “**Principle of Absolute Liability**”. This principle is a reformed version of the principle of strict liability. It was first followed in *M.C. Mehta v. Union of India*⁹ where the Supreme Court held that

*‘Wherean enterprise is engaged in a hazardous or inherently dangerous activity resulting for example in the escape of toxic gas, the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability.’*¹⁰ This principle has been further referred in various other cases.¹¹

There are other principles which are globally accepted and are incorporated in the Indian Legal System like:

- Polluter Pays Principle
- Precautionary Principle
- Public Trust Doctrine
- Inter-generational Equity.

The concept of Sustainable Development is an area of concern of the global environmentalists. There have been various efforts for the incorporation of the principles integrated under the concept of sustainable development. It is always difficult to impose upon anyone

restrictions which reduce in some way the benefits their work. In case of industries which produce the various goods, imposing restrictions on their producing ability or imposing taxes or duties to reduce their production is generally unwelcome. However, for the greater good or the welfare of the society there is a necessity to impose the abovementioned principles either directly by way of legislations in furtherance of those policies or indirectly by giving the option to the industries to make good the loss by providing facilities or amenities to the public at large. This second way has been taken into consideration while drafting the new legislation on this behalf.

Corporate Social Responsibility:

Corporate Social Responsibility (CSR) is the commitment of businesses to contribute to sustainable economic development by working with employees, their families, the local community and society at large to improve their lives in ways that are good for business and for development.¹² CSR is the process by which an organization thinks about its relationships with its stakeholders for the common good and demonstrates its commitment in this regard by adoption of appropriate business processes and strategies. It is a way of conducting business by which corporate entities visibly contribute to social good. Thus CSR is not a charity or mere donations but an actual positive activity which should be undertaken by a Company.

Evolution of CSR movement in India:

The Ministry of Corporate Affairs issued CSR Voluntary Guidelines, 2009 in December 2009. This was the first step in bringing out the requirement of CSR from the side of the Government. It had a mixed response throughout the Country. The guidelines explained the purpose of including CSR activities:

*“CSR is not philanthropy and CSR activities are purely voluntary obligation. The guidelines are to provide companies with guidance and dealing with the abovementioned expectations, while working closely within the framework of national aspirations and policies, following Voluntary Guidelines for Corporate Social Responsibility have been developed”*¹³



The then policy of CSR was:

- Identification of Projects/ Activities
- Setting measurable targets with timeframe
- Organization mechanism and responsibilities monitoring
- Allocation of specific amount of budget linked to profit
- Sharing experiences and network with other organizations
- Dissemination of information on CSR Policy, activities and progress to all stakeholders and public at large through website; annual report and other public media.

Nowadays a good number of companies have started promoting their Corporate Social Responsibility strategies as the investors, customers and the public are demanding them to be more responsible and sustainable. It is evident that in some cases CSR is the outcome of various social, economic and environmental pressures.

CSR should also take into account the climate change, sustainable management of natural resources and consumer protection along with the compliance of human rights standards, labour and social security arrangements. The concept of **Climate Justice** should also be taken into account by Corporations while formulating their policies on CSR.

Changed Status of Corporate Social Responsibility in Companies Act, 2013:

Companies Act, 2013 has introduced mandatory Corporate Social Responsibility. Section 135 provides the broad legal framework. CSR is mandatorily applicable to companies which satisfy net worth or turnover or profit limit as follows:

- i. Net worth of Rs. 500 crore or more; or
- ii. Turnover of Rs. 1000 crore or more; or
- iii. Profit of Rs. 5 crore or more.

The companies which fall within any of these categories shall discharge CSR responsibilities through Board committee which shall comprise of 3 or more directors including at least one independent director. The committee shall formulate a CSR policy that would specify the activities to be undertaken by the company

including the area/s in which CSR activities to be undertaken, time schedule and mode of implementation. It should also prepare a CSR budget and monitor over the CSR policy.

The Board of every company shall after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed and also ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

The Board of every such company shall ensure that the company spends, in every financial year, at least two percent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

If however, the company fails to spend such amount, the Board shall, in its report specify the reasons for not spending the amount.

Areas in Which CSR related investment can take place:

Activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to:—

- i) eradicating extreme hunger and poverty;
- ii) promotion of education;
- iii) promoting gender equality and empowering women;
- iv) reducing child mortality and improving maternal health;
- v) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- vi) ensuring environmental sustainability;
- vii) employment enhancing vocational skills;
- viii) social business projects;
- ix) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the



State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and

- (x) such other matters as may be prescribed.
- The sixth point which has been prescribed in the Schedule VII of the Companies Act, 2013 clearly shows the importance of environment sustainability in the society. In this area there can be various activities undertaken by the company like:
- i. Projects to increase the forest cover through afforestation and reforestation;
 - ii. Water management including ground water recharge;
 - iii. Land and Marine biodiversity conservation;
 - iv. Land and Marine ecosystem conservation;
 - v. Recycling waters;
 - vi. Pollution abatement,
 - vii. Rain water harvesting; etc.

Global Warming:

One of the biggest problems faced by the world today is global warming. Many scientists believe that our production of carbon dioxide and other greenhouse gases is having a heating effect on the atmosphere, and this could be extremely dangerous for human life. Many problems could result from global warming. One of the biggest problems is the rising sea level. This could result in the flooding of low lying coastal areas and cities, such as Egypt, the Netherlands and Bangladesh. Some countries might even disappear from the world map. Another problem caused by global warming is changes in weather patterns. Many areas of the world are experiencing increased hurricanes, floods, and other unusual weather. A third problem associated with global warming is the effect on animals. Fish populations could be affected, while some insects which spread disease might become more common.

Unfortunately, the imbalance which we have created between our life and earth is already showing the signs disasters in the form of flood, cyclones, landslides, tsunami, drought, etc. If the imbalance continues to rise, one day this will pose a question mark on the existence of this planet. Carbon dioxide (CO₂) which is an

important constituent of environment is causing a warming effect on the earth's surface. There is a close relation between global warming and population growth. Today the large population on earth is using the technologies which are destructive for the earth. Approximately, 80 per cent of atmospheric CO₂ increases are due to man's use of fossil fuels either in the form of coal, gas or oil. A large portion of carbon emission is attributed to the burning of gasoline in internal-combustion engine of vehicles. Vehicles with poor gas mileage contribute the most to global warming. Besides, the sulphur group gas is the most harmful for this. Its contribution is 30 per cent in global warming. This gas is also emitted from the burning of fossil fuels.

Role of Industries in Global Warming:

The growing concerns over global temperatures have led to the nations, states, corporations and individuals to draw out a plan of action to avert the situation. As a result the world's primary international agreement on combating global warming was reached in Kyoto in 1997 which came to be known as Kyoto Protocol. However, eighteen years have passed; the situation does not appear to be very changed. It seems that the member countries are not very serious about its devastating effects.

In addition, forestation can be of great help in this regard. Planting more trees and reducing timber cuts worldwide will help restore the imbalance. Secondly, we must follow on environmental policy of 'reduce, reuse, recycle', i.e. promoting the reuse of anything. Thirdly, the use of fuel-efficient vehicles should be promoted as these vehicles have lower emissions of harmful gases. Fourthly, every individual should be aware of the importance of the protecting environment. Besides, eco-friendly technologies must be promoted, and must be substituted with the technologies which cause great emission of global warming gases. Public awareness campaign can be of great help in this regard because unless each and every individual is aware only governments' effect cannot bring desired difference.



Activities which can be conducted in relation to controlling Global Warming:

There are various activities which can be incorporated as 'lifestyle changes' to reduce the devastating effect of global warming. Reducing one's carbon footprint is the key to solve this problem.

- Minimization the use of fossil fuels at personal level as well as industrial sector.
- Ensuring the usage of minimum energy consuming products.
- Using eco-friendly transportation.
- Construction of Green Buildings.

This will in turn reduce the requirement of thermal power stations which are one of the greatest consumers of fossil fuels.

Ensuring Environment Sustainability:

This provision is there in the entry (vi) of Schedule VII of the Companies Act, 2013.

1. **Reduce Deforestation and Implement Reforestation**
2. Create mechanism for **recycling** of various products
3. Create mechanism for **waste management** in consultation with the municipal authorities
4. Promote **residential vegetation** and help train people for the same
5. Educate people to **Slow Population Growth and Decrease per Capita Energy Use**.
6. Create programmes for the **awareness of global warming**.
7. **Environmental management, eco-efficiency and responsible sourcing.**¹⁴

Conclusion:

International concern about global climate change is increasing the attention being given to these issues. The impacts of climate change may be very serious to developing countries, particularly Least Developed Countries, many of which are not properly equipped to deal with the effects on agricultural output, labour productivity, health and internal displacement, etc. Considering the status of India in this scenario, our greatest asset currently viz. manpower of human resource can turn out to be our greatest liability if there is no action taken in properly planned way.

There is a possibility of intensified competition for scarce resources, including water and energy. This in turn will increase conflicts within the industrial context. Environmental degradation and climate change may also intensify existing environmental threats like desertification, rise in the sea-level, more frequent severe weather events and shortage of freshwater. This in turn will affect the civilization due to cross-border conflict and uncontrollable migration. If there is efficient use of resources and economic development is not solely based upon the carbon based fossil fuels it can thus lessen the pressure and help to avert some important root causes of social conflict.

Companies have a lot of power in the community and in the national economy. They control a lot of assets, and may have billions in cash at their disposal for socially conscious investments and programs. There is therefore a requirement that corporations should devote their time and money to environmental sustainability programs, alternative energy or using clean technologies, and various social welfare initiatives to benefit employees, customers, and the community at large through the CSR.

A properly implemented CSR concept can bring along a variety of competitive advantages, such as enhanced access to capital and markets, increased sales and profits, operational cost savings, improved productivity and quality, efficient human resource base, improved brand image and reputation, enhanced customer loyalty, better decision making and risk management processes. It will also change the image of the Company in the eyes of the stakeholders. Last but not the least; the world would be a better, cleaner and '**greener**' place to live in!

(Endnotes)

- 1 c.F. [Http://www.Janalakshmi.Com/wp-content/uploads/evolution_of_csr_in_india.Pdf](http://www.Janalakshmi.Com/wp-content/uploads/evolution_of_csr_in_india.Pdf)
- 2 Shyam divan & armin roscranz, environmental law & policy in india 549 (2001)
- 3 Shyam divan & armin roscranz, environmental law & policy in india 550 (2001)
- 4 Dr.Usharamanathan, *liability and environmental damage, the indian experience*, available at <http://ielrc.Org/activitiesconfer->



- ence_0402/assets/kl/040226_usharamana-
than.Pdf.
- 5 *Sustainable development in indian constitution*, available at <http://www.Legalserviceindia.Com/articles/jud.Html>
- 6 *Brundtland report* available at <http://www.Sustainablecities.Dk/en/actions/a-paradigm-in-progress/brundtlandreport-our-common-future> (last visited on november 22, 2011)
- 7 *M.C.Mehtav.Union of india* air 1987 sc 1086 at p1089
- 8 Introduction to environmental law, s.Santhakumar 101(2005).
- 9 Ibid at vi.
- 10 Id at p. 1099
- 11 See *union carbide corporation v. Union of india* (1991) 4 scc 584; *deepak nitrate ltd. V. State of gujrat* (2004) 6 scc 402; see also *indian council for enviro legal action v. Union of india* (1996) 3 scc 584
- 12 Bowen, h.R. (1953), *Social responsibilities of the businessman* new york: harper & row.
- 13 National voluntary guidelines available at <http://www.Mca.Gov.In>
- 14 Emphasis supplied.