

# PUBLIC TRUST DOCTRINE: MISUSE OF PUBLIC RESOURCES BY THE EXECUTIVE

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**Abstract:** The Public trust doctrine (PTD) was Uttered for the first time in India in *M.C. Mehta Vs Kamal Nath*.<sup>1</sup> This dogma is now card carrying as part of Indian law<sup>2</sup>, and it is actively applied to foster the environment.<sup>3</sup> The enduring history of the doctrine suggests that members of the public can reasonably expect the preponderant to respect its executrix obligations, giving them a protected engrossment. This Chapter of my paper, while dealing with the Roman concept of 'Public Trust', seeks to explore the various provisions of the Constitution of India concerning 'environmental protection' and, Understanding the PTD as protected by due process would synchronicity with existing PTD paradigm and clarify the doctrine's application in the future, allowing it to become the substratum of environmental law that it could be.

**Index Terms - Uttered, Carrying, Enduring, Substratum, preponderant etc.**

## I. INTRODUCTION

Basically, the ancient Roman Empire developed this legal theory i.e. Doctrine of the Public Trust. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes.<sup>4</sup>

The doctrine of public trust has evolved over the years to emerge as one of the core principles for the judiciary to substantiate the legitimacy of governmental action that interferes with the use by the general public of natural resources. The incorporation of this doctrine into our legal system has resulted in the imposition of a much required check upon governmental authorities who seek to divest State control over such natural resources in favor of private parties. Though the origin of the doctrine can be traced to ancient times and it is of considerable vintage in the United States, its application in the Indian legal system is a modern development.<sup>5</sup>

## II. HISTORICAL BACKGROUND:

The history of the doctrine is traced to the Roman emperor, Justinian. In Book II of his Institutes, Emperor Justinian proclaims: By the law of nature these things are common to mankind---the air, running water, the sea, and consequently the shores of the sea. No one, therefore, is forbidden to approach the seashore.<sup>6</sup>

The public trust doctrine "is based on the notion that the public holds inviolable rights in certain lands and resources, and that regardless of title ownership", and that "the state retains certain rights in such lands and resources in trust for the public. "This conception of public rights has two ancient bases."<sup>7</sup>"First, under Roman law the air, running water, the sea, and consequently the sea shore' were the property of no man but rather were common to all." "Second, early English common law provided that title to tidelands had two components": "the King's right of jus privatum, which could be alienated, and the jus public cum rights of navigation and fishing, which were held by the King in inalienable trust for the public".<sup>8</sup>

<sup>1</sup> 1997 (1) S.C.C. 388.

<sup>2</sup> M.I. Builders Pvt. Ltd. Vs Radhey Shyam Sahu. A.I.R. 1999 S.C. 2468.

<sup>3</sup> Dr. L. Solomon Raja and Dr. A. David Ambrose, *Environmental Law*, (2001), P. 109.

<sup>4</sup> M.Appavu vs. The Chief Secretary To Government, W.P(MD) Nos.22425 of 2015 and 20558 of 2016 and W.M.P.(MD) Nos.14722, 17125 and 17087 of 2016.

<sup>5</sup> "Doctrine of Public Trust." Law Teacher. LawTeacher.net, November 2013. Web. 24 March 2018. <<https://www.google.co.in/?vref=1>>.

<sup>6</sup> 'The Public Trust Doctrine' available at: [http://www.slc.ca.gov/policy\\_statements/public\\_trust/public\\_trust\\_doctrine.pdf](http://www.slc.ca.gov/policy_statements/public_trust/public_trust_doctrine.pdf) (Last visited 21st March 2018).

<sup>7</sup> Thor Matthew Krisch 46 Duke L. J. 1169.

<sup>8</sup> Id. In other words, the public trust is an affirmation of the duty of the state to protect the people's common heritage of tide and submerged lands for their common use.

Various Public properties; including rivers, the seashore, and the air, are held by the government in trusteeship for the uninterrupted use of the public. The Sovereign could not make clandestine transfer of public trust properties which the public had a right to enjoy to any private parties if such transfer when affected could interfere with the interest of the public at large.<sup>9</sup>

### III. MODERN REVIVAL:

Joseph L. Sax, Professor of Law, University of Michigan, was the proponent of the Modern Public Trust Doctrine. According to Prof. Sax, the public trust doctrine imposes the following restrictions on governmental authority:<sup>10</sup>

"Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third, the property must be maintained for particular types of uses"

### IV. PUBLIC TRUST DOCTRINE AND SUPREME COURT OF INDIA:

In *M.C. Mehta versus Kamal Nath*, the Supreme Court assessed various U.S. Court choices, especially the judgment of the Supreme Court of California in *National Audubon Society versus Superior Court of Alpine County*.<sup>11</sup> The case is prevalently known as "*the Mono Lake case*", Mono Lake is the second biggest lake in California. The lake is saline. It contains no fish however bolster a huge populace of brackish water shrimp which encourage huge quantities of settling and relocating flying creatures. Islands in the lake secure a huge rearing settlement of California gulls, and the lake itself fills in as a shelter on the relocation course for a large number of feathered creatures. Towers and towers of Tura on the north and south shores are matters of geographical intrigue and a vacation spot. In 1940, the Division of Water Resources conceded the Department of Water and Power of the city of Los Angeles and allows to proper for all intents and purposes the whole stream of 4 of the 5 streams streaming into the lake. Because of these preoccupations, the level of the lake dropped, the surface territory decreased, the gulls were relinquishing the lake and the beautiful excellence and the environmental estimations of the Mono Lake were endangered. The offended party's naturalist - utilizing the public trust doctrine - documented a claim against Los Angeles Water Diversions; the case, in the long run, went to the California Supreme court, on a Federal Trial Judge's ask for elucidation of the State's public trust doctrine. The Court clarified the idea of public trust doctrine in the accompanying words:-

The Court finally came to the conclusion that the plaintiffs could rely on the public trust doctrine in seeking reconsideration of the allocation of the waters of the Mono basin.

It is no uncertainty amend that people in general trust convention under the English Common Law stretched out just to certain customary uses, for example, route, trade, and angling. Be that as it may, the American Courts in late cases have extended the idea of the general population confide in tenet. The perceptions of the Supreme Court of California in Mono Lake case obviously demonstrate the legal worry in ensuring all naturally imperative grounds for instance new water, wetlands or riparian timberlands. The perception of the Court in Mono Lake case such that the assurance of natural esteems is among the reason for people in general trust, may offer ascent to a contention that the biology and the earth security is an applicable factor to figure out which terrains, waters or pretense are ensured by the general population put stock in regulation. The Courts in United States are finally beginning to adopt this reasoning and are expanding the public Trust to encompass new types of lands and waters. In *Phillips Petroleum co. vs. Mississippi*<sup>12</sup>, the United States Supreme Court upheld Mississippi's extension of public trust doctrine to lands underlying no navigable tidal areas. The majority judgment adopted ecological concepts to determine which lands can be considered tide lands. Phillips Petroleum case assumes importance because the Supreme Court expanded the public trust doctrine to identify the tide lands not on commercial considerations but on ecological concepts. We see no reason why the public trust doctrine should not be expanded to include all eco-systems operating in our natural resources.

Chronologically the second case on this subject is **Th. Majra Singh v Indian Oil Corporation**<sup>13</sup> (AIR 1999 J&K 81), where the petitioner objected to the location of a plant for filling cylinders with liquified petroleum gas. It was held that the High Court can only examine whether authorities have taken all precautions with a view to see that laws dealing with environment and pollution have been given due care and attention. Though the case was decided on the basis of the precautionary principle, it confirmed that the public trust doctrine has become part of Indian legal thought processes. In the High Court's opinion, the doctrine is a part and parcel of Article 21 of the Constitution and that 'there can be no dispute that the State is under an obligation to see that forests, lakes and wildlife and environment are duly protected'. According to the Court, the idea that the 'public has a right to expect certain lands and natural areas to retain their natural characteristics is ending its way into the law of the land'

**M.I. Builders v Radhey Shyam Sahu**<sup>14</sup>, The Supreme Court has applied the Public Trust Doctrine. Here, the Lucknow Nagar Mahapalika (i.e. Lucknow City Corporation) granted permission to a private builder to construct an underground shopping complex which was against the municipal Act and Master plan of the city of Lucknow.

<sup>9</sup> Id.

<sup>10</sup> Sax, Joseph L. (1970). "The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention". *Michigan Law Review*. The Michigan Law Review Association. 68 (3): 471–566. doi:10.2307/1287556. JSTOR 1287556.

<sup>11</sup> 33 CAL. 3d 419.

<sup>12</sup> 108 S.Ct. 791 (1988).

<sup>13</sup> Application of public trust doctrine in Indian environmental, Available from:

[https://www.researchgate.net/publication/287465696\\_Case\\_law\\_analysis\\_Application\\_of\\_public\\_trust\\_doctrine\\_in\\_Indian\\_environmental\\_cases](https://www.researchgate.net/publication/287465696_Case_law_analysis_Application_of_public_trust_doctrine_in_Indian_environmental_cases) [accessed Mar 23 2018].

<sup>14</sup> AIR 1999 SC 2468.

Therefore, the construction of an underground market in the grab of decongesting the area was wholly contrary and prejudicial to the public purpose. By allowing the construction, Mahapalika has deprived its residents, and also others, of the quality of life to which they were entitled to under the Constitution and under the Municipal Act. In addition, the Mahapalika violated the Public Trust Doctrine and the Court ordered the demolition of the unauthorized shopping complex.<sup>15</sup> The Supreme Court, in M.I. Builders reconfirmed that the public trust doctrine is established in the Indian legal system and asserted that the public authorities should act as trustees of natural resources. However, it is clear from all these cases that the court did not confer any property right on the public under the trust. While applying the Public Trust Doctrine, the Court in all these cases, took account of either the polluter pays the principle or the precautionary principle or both.

**K. M. Chinnappa v Union of India**<sup>16</sup>, this was a petition for testing the renewal of mining lease allowed to Kudremukh Iron Ore Company in the Kudremukh National Park. The Supreme Court held that the perfect radiance of the common assets can't be permitted to be eroded or encroached unless the Courts find it necessary in good faith for the public good and in the public interest

**State of West Bengal v Kesoram Industries Ltd.**<sup>17</sup>, This Doctrine was by and by taken after wherein it was watched that profound underground water has a place with the State as in the Doctrine of Public Trust expands thereto. Groundwater is considered as a piece of national wealth and it has a place with the whole society. Water is a nectar managing life on earth and in this manner; the State has an obligation to ensure groundwater against intemperate abuse.

**Intellectual Forum v State of A.P**<sup>18</sup>, The Court held that natural resources which incorporate lakes are held by the State as a trustee of people in general, and can be discarded just in a way that is reliable with the nature of such a trust.

**Fomento Resorts and hotels Ltd. v Minguel Martins**<sup>19</sup>, The Court has reiterated the Doctrine and observed that the natural resources including forests, water bodies, rivers, etc are held by the State as a trustee on behalf of public and especially for future generations.

#### V. ENVIRONMENTAL CARE BY THE CONSTITUTION- A MAJOR BREAKTHROUGH:

But a 'major breakthrough' has emerged in the field of 'environmental protection' as result of the Supreme Court's landmark decision in Maneka Gandhi's case.<sup>20</sup> In this case, the Court has taken the view that the provisions of Part III of the Constitution should be given widest possible interpretation. Delivering the judgment, Justice P.N. Bhagwati observed:

*"The correct way of interpreting the provisions of Part-III is that the attempt of the court should be to expand the reach and ambit of the fundamental rights rather than to attenuate their meaning and content by judicial interpretation".*

Justice Bhagwati found that *'the right to life includes the right to live with human dignity'* and all that goes along with it, namely, the bare necessities of life, such as, adequate nutrition, clothing and shelter and facilities for reading, writing and expressing ourselves in diverse forms, freely moving about and mixing and compiling with fellow human being. Keeping in view the Maneka's philosophy relating to right to life and personal liberty, the Supreme Court of India, in a number of subsequent cases,<sup>21</sup> involving issues relating to environment and ecological balance, has widened the scope of Article 21 by stipulating that a 'clean environment is essential to human survival'<sup>22</sup>. Public Interest Petitions have, thus, been founded on Articles 21 to comprehend health hazard due to pollution.<sup>23</sup>

The Supreme Court of India has also applied the 'doctrine of emanation'<sup>24</sup> following the example of the U.S. Supreme Court and has evolved 'the right to pollution free environment'<sup>25</sup> as fundamental right as an emanation from Article 21.

The Post Maneka developments truly reflect the ideals of democratic freedom.<sup>26</sup> The Supreme Court held that Article 21 not only generates processual justice,<sup>27</sup> but also widens the scope of the substantive right to life.<sup>28</sup> The first time when the Supreme Court came close to almost declaring the right to environment in Article 21 was in 1990 in *Chhertiya Pradushan Mukti Sangarsh*

<sup>15</sup> Tanvi Kapoor, Public Trust Doctrine, Legal Service India, <http://www.legalserviceindia.com/articles/ptdoc.htm>.

<sup>16</sup> AIR 2003 SC 724.

<sup>17</sup> (2004) 10 SCC 201.

<sup>18</sup> (2006) 3 SCC 549.

<sup>19</sup> 2009) 3 SCC 571.

<sup>20</sup> Maneka Gandhi Vs. Union of India, A.I.R. 1978 S.C. 594.

<sup>21</sup> Rural Litigation and Entitlement Kendra, Dehradun (No. 1), Vs State of Uttar Pradesh, (1985) 3 S.C.R. 169; (85) A. S.C. 652; M.C. Mehta Vs Union of India, A.I.R. 1987 S.C. 985; Chhertiya Pradushan Mukti Sangarsh Samiti Vs State of Uttar Pradesh, A.I.R. 1999 S.C.2060; Subiash Kumar Vs Slate of Bihar, A.I.R. 1991 S.C. 420.

<sup>22</sup> M.C Mehta, 'Judicial Activism : Unexpected Saviour', in Handbook of Environment, Forest and Wildlife Protection Laws in India, (1998), p. 4.

<sup>23</sup> Durga Das Basu, Shorter Constitution of India, (1994), p. 182.

<sup>24</sup> Durga Das Basu, Human Rights in Constitutional Law, (1994), p. 96.

<sup>25</sup> M.C. Mehta Vs Union of India, (1987) 4 S.C.C. 463.

<sup>26</sup> Sunil Batra Vs. Delhi Administration. Prison Tihar, A.I.R. 1978 S.C. 1675.

<sup>27</sup> Prem Shankar Shukla Vs. Delhi Administration, A.I.R. 1980 S.C. 1536.

<sup>28</sup> People's Union of Democratic Rights and Others Vs Union of India, A.I.R. 1982 S.C. 1473.

*Samiti Vs State of U.P.*, <sup>29</sup>*Subhash Kumar Vs State of Bihar*<sup>30</sup> is the other notable case where the Supreme Court took a step forward. In *Chhetriya Pradushan*, Chief Justice Sabyasachi Mukherji observed:

"Every citizen has a fundamental right to have the enjoyment of quality of life and living as contemplated in Article 21 of the Constitution of India".

In *Subhash Kumar*, Justice K.N. Singh observed in a more vivid manner:

"Right to live includes the right to enjoyment of pollution free water and air for full enjoyment of life."

Accordingly, the Court imposed pollution fine Rs. 10,000/- on each tannery and further directed it to be deposited in 'Environmental Protection Fund' for the purpose of compensating the affected persons and restoring the 'ecological balance'.

The 'polluter pays principle' has been held to be a sound principle by the Supreme Court in *Indian Council for Enviro-Legal Action Vs Union of India*.<sup>31</sup>

In *M.C. Mehta Vs Union of India (Taj Mahal Case)*<sup>32</sup>, the petitioner, Advocates ought the intervention of the Supreme Court of India for the protection of the Taj Mahal. According to the petitioner, the Taj, a monument of international repute is on its way to degradation due to atmospheric pollution and it is imperative that preventive actions are taken and soon. Facts remain that the sulphur dioxide (So<sub>2</sub>) emitted by the Mathura Refinery and other industries, when combined with oxygen with the aid of moisture in the atmosphere forms sulphuric acid (H<sub>2</sub>SO<sub>4</sub>) called 'Acid Rain'<sup>33</sup> which has a corroding effect on the gleaming white marble.

The Supreme Court issued notices to the Mathura Refinery to show cause as to why a heavy pollution fine of Rs. five lacs per month should not be imposed on the Mathura Refinery for emitting 500 kg of Sulphur dioxide per hour when the permissible limit was only 80 kg per hour. Industrial / Refinery emissions, brick kilns, vehicular traffic and generator sets are primarily responsible for polluting the ambient air around Taj Trapezium (TTZ) The Supreme Court observed that the Taj, apart from being cultural heritage, is an industry by itself. More than 2 million tourists visit the Taj every year. It is a source of revenue for the country. This Court monitored this petition for over three years while the sole object of preserving and protecting the Taj from deterioration and damage due to atmospheric and environmental pollution. It cannot be disputed that use of coke coal by the industries emits pollution in the ambient air. The objective behind this litigation. Is to stop the pollution while encouraging development of industry'. The old concept of development and ecology cannot go together is no longer acceptable. 'Sustainable Development' is the answer. The development of industry is essential for the economy of the country, but at the same time the environment and the eco-systems have to be protected. The pollution created as a consequence of development must commensurate with the 'carrying capacity' of our eco-systems.

The Court relied on its own observations made in *Vellore Citizens Welfare Forum Vs Union of India and other*,<sup>34</sup> wherein it has defined the 'precautionary principle' and the 'polluter pays principle'.

The 'polluter pays' has been held to be a sound principle by the Supreme Court in *India Council for Enviro-Legal Action Vs Union of India*.<sup>35</sup>

## VI. DOCTRINE OF PUBLIC TRUST IN VARIOUS STATES IN INDIA:

### • Kerala

In Kerala, Plachimada Panchayat has issued orders denying authorization to extricate groundwater because of natural issues in the adjacent territories. Following the standards of Public Trust Doctrine, the court has maintained the means taken by the Panchayat. The State and its instrumentalities should go about as trustees of these extraordinary riches. The state has an obligation to secure groundwater against extreme misuse and the inaction of the State in such manner will equivalent to the encroachment of the privilege to the life of the general population ensured under Art 21 of the Constitution. Coca Cola Company has no right to extract much of national wealth and the extraction of ground water is illegal, the Court held. Kerala State Government has framed legislation for protecting the fragile forest land following the said principle of public trust doctrine. Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2002 was framed following the above principles.

### • Andhra Pradesh

Andhra Pradesh State Government has issued warning restricting the change of horticultural land for another reason to be specific for water system or for some other reason at all by the State/Board of Revenue. Andhra Pradesh HC has held that the same can't be said to be terrible in law. Profound underground water has a place in the State as in convention of open trust broadens thereto. A man who holds arrive for the rural reason may, subject to the sensible confinement that might be made by the State may have the privilege to utilize water for irrigational purposes and for the said reason he may likewise uncover a tank. But under no circumstances, he can be permitted to restrict the flow of water to the neighboring lands or discharge the effluents in such a manner so as to affect the right of his neighbor to use water for his own purposes.

### • Tamil Nadu

Repeating the standards of "Open Trust" sand mining was halted. Madras HC coordinated to make proper move against the officers of the Government who allowed the unlawful expulsion of the sand and making harm the stream.

### • Rajasthan

<sup>29</sup> A.I.R. 1990 S.C. 2060.

<sup>30</sup> A.I.R. 1991 S.C. 420.

<sup>31</sup> (1996) 3 S.C.C. 212 ; JT (1996) 2 S.C. 196.

<sup>32</sup> Writ Petition (Civil) No. 13381 of 1984, Supreme Court decided on December. 31), 1996

<sup>33</sup> The term 'acid rain' was first used by Robert Angus in 1872, Literally it means the presence: of excessive acids in rain waters.

<sup>34</sup> J.T. 1996(7) S.C. 375.

<sup>35</sup> WRIT PETITION (C) No.967 OF 1989.

Steps were taken to acquire land which is the bed of a town. The same was challenged before the Rajasthan HC in a PIL.HC found that there is no need to summon the criticalness arrangements and the standards of Public Trust has been featured.

## VII. DOCTRINE OF PUBLIC TRUST IN RESPECT OF SCAMS HELD IN INDIA:

### □ The Public Trust Doctrine as an Anti-Corruption Weapon:<sup>36</sup>

A few things about seeing corruption as a focus of the Public Trust Doctrine might be useful:

I. It's really hard to \*prove\* corruption, but the PTD might essentially bring an easier burden of proof to reverse anti-environmental decisions;

II. In those nations where transparency is a problem (and in this, the United States is becoming more of a group member), the PTD could force a more open process to consider the public interest if administrative bodies refuse to reform;

III. In addition to asking which resources are covered by the Public Trust, we can also ask in any specific case whether there are reasons to believe that non-market values were given short shrift, or various disadvantaged groups were, well, disadvantaged. If so, then the Public Trust could be used to modify administrative orders or policy decisions — at least until and unless elected officials establish, by a preponderance of the evidence, that whatever decision at issue was indeed taken for public-regarding reasons however one wants to define that.

#### 1. WHAT IS COAL SCAM?

In a point of interest Judgment, the Supreme Court held that the central government's allocation of coal blocks to public and private owned companies amid the seventeen years in the vicinity of 1993 and 2010 was unlawful and ultra vires the Constitution. The coal block allotment scam, prominently known as "Coalgate", went to the cutting edge of the political and lawful scene when a 2012 report by the Comptroller and Auditor General ("CAG") blamed the administration for causing immense misfortunes (Rs. 1.86 lakh crore) to people in general exchequer in its coal designations. That year, M.L. Sharma and Common Cause independently recorded petitions under the watchful eye of the Supreme Court, testing the allotment. The political and economic ramifications of Manohar Lal Sharma v. The Principal Secretary<sup>37</sup> ("Coalgate") is already being felt. The judgment is also of great interest because of its significant contribution to one of the most important constitutional issues in contemporary India: the judicial review of the government's distribution of natural resources.

#### 2. 2G SCAM:

I had talked about the Supreme Court's sentiments in the "2G Spectrum Cases". In the First Spectrum Case, the Court summoned the standard of fairness under Article 14, the custom-based law convention of "public trust" (that is, the government acts as a trustee of the people in its ownership and distribution of natural resources), and the prerequisite of overseeing characteristic assets keeping in mind the end goal to serve the benefit of everyone (drawn from the Directive Principles of State Policy) to hold that an open closeout was the main worthy method for dispersing common assets to private gatherings for abuse. At the end of the day, the Court not just investigated – and discredited – the procedure by which dissemination occurred, yet in addition the approach. The Court's judgment conflated two separate issues: the administration's commitments under the Directive Principles and people in general put stock in teaching, and the Court's energy (or deficiency in that department) to implement those commitments. In choosing upon the procedure as well as the approach of allotment, the Court violated its power in entering a field that was both past its capability and its authenticity. After the First Spectrum Case, the Court embarked upon a process of self-correction. In the Second Spectrum Case (a Presidential reference), the Court limited the holding of the First Spectrum Case only to spectrum allocation, and held that it did not lay down a requirement for public auctions being the only legitimate methods of distribution in all cases. The Second Spectrum Case left open the question, however, of the extent to which the Supreme Court could substitute its own opinions about legitimate policy for that of the government, and various observations in that case point in different directions. In Coalgate, the Supreme Court has gone a long way towards answering that question.

Before the Court, the petitioners contended that the coal block allocation violated statutory requirements under the Mines and Minerals (Regulation and Development) Act, 1957 and the Coal Mines (Conservation and Development) Act, 1974 as well as the public trust doctrine, and Article 14. In paragraphs 12 through 73, the Court examined the statutory question, and found that the allocation was illegal. Ordinarily, this would preclude any need to examine the constitutional question. However, perhaps in view of the government's history of amending laws retrospectively to get around court decisions, the Court then proceeded to consider the constitutional questions as well.

## VIII. SUGGESTION:

From the above talks on the precept and different case laws, it is obvious that the state isn't the owner of the natural resources in the nation, however, a trustee who holds a guardian association with the general population. By accepting this task the government is expected to be loyal to the interests of its citizens and to discharge its duty with the interest of the citizens at heart and involve them in the decision-making process concerning the management of natural resources in the country. The Public Trust Doctrine may give the way to expanding the adequacy of ecological effect evaluation laws. Therefore, under this precept, the state has an obligation as a trustee under workmanship. 48A to secure and enhance nature and defend the woods and untamed life of the nation. While applying art. 21 (right to life), the state is obliged to take account of art. 48A, a Directive Principle of State Policy. The state's trusteeship duty has been expanded to include a right to a healthy environment.

<sup>36</sup> Legal-planet, The Public Trust Doctrine as an Anti-Corruption Weapon, Jonathan Zasloff,

<http://legalplanet.org/2018/09/13/the-public-trust-doctrine-as-an-anti-corruption-weapon/>, visited on : September 21, 2018.

<sup>37</sup> WRIT PETITION [C] NO. 283 OF 2013.

**IX. CONCLUSION:**

It is beyond doubt that Public trust doctrine has gained its legal status in different jurisprudence. However, it is important to add here that the general stand of the court is that it did not confer any property right on the public under the trust. While applying the public trust doctrine, the Court in almost all the cases, took account of either the polluter pays principle or the precautionary principle or both. Hence, the application of public trust doctrine is in tandem with the application of other major environmental law principles.

As, it is a doctrine which is developed by judicial-legislation, active role of legislature is also required so that Public Trust Doctrine find its place in the statute. This will further the cause for which this doctrine is developed. Recent chain of cases makes it crystal clear that court is not reluctant to use this doctrine for the protection of state authorities.

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- 26) Sunil Batra Vs Delhi Administration. Prison Tihar, A.I.R. 1978 S.C. 1675.
- 27) Prem Shankar Shukla vs. Delhi Administration, A.I.R. 1980 S.C. 1536.
- 28) People's Union of Democratic Rights and Others Vs Union of India, A.I.R. 1982 S.C. 1473.
- 29) A.I.R. 1990 S.C. 2060.
- 30) A.I.R. 1991 S.C. 420.
- 31) (1996) 3 S.C.C. 212; JT (1996) 2 S.C. 196.
- 32) Writ Petition (Civil) No. 13381 of 1984, Supreme Court decided on December. 31), 1996
- 33) The term "acid rain" was first used by Robert Angus in I 872. Literally it means the presence: of excessive acids in rain waters.
- 34) J.T. 1996(7) S.C. 375.
- 35) WRIT PETITION (C) No.967 OF 1989.
- 36) Legal-planet, The Public Trust Doctrine as an Anti-Corruption Weapon, Jonathan Zasloff, <http://legal-planet.org/2018/09/13/the-public-trust-doctrine-as-an-anti-corruption-weapon/>, visited on : September 21, 2018.
- 37) WRIT PETITION [C] NO. 283 OF 2013.