BLOGS

Passage-Based Test on Environmental Law for CLAT PG [Part 4]

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Passage

It is estimated that nearly 6,000 million tonnes of soil is washed away every year in floods. With that go 6.0 million tonnes of nutrients, more than the amount that is applied in the form of fertilisers. We shall now deal with legislative measures to preserve the forests and impact of such provisions on mining after briefly referring to the legislative power in regard to forests.

“Forest” was initially a State subject covered by Entry 19 in List II of the Seventh Schedule: In 1976, under the 42nd Amendment the entry was deleted and Entry 17-A in the Concurrent List was inserted. The change from the State List to the Concurrent List was brought about following the resolution of the Central Government that forests were of national importance and should be placed in the Concurrent List to enable the Central Government to deal with the matter. The same amendment of the Constitution brought in Article 48-A in Part IV. Article 51-A in Part IV-A of the Constitution inserted by the same amendment provided a set of fundamental duties.

1972 marks a watershed in the history of environmental management so far as India is concerned. The National Committee of Environment and Planning and Coordination was set up and various steps were taken to implement the recommendations already made and to be made: thereafter. The National Commission on Agricultural in 1976 noticed the inadequate implementation of the 1953 National Forest Policy and proposed the following amendments: (i) Provision for prior approval of the Central Government before taking steps for dereservation or diversion of forest lands to non-forest use. (ii) Preventing and evicting encroachment of forest lands. (iii) Safeguarding against monoculture practices in raising forest plantations so that preservation of habitats for natural flora and fauna is ensured. (iv) Encouraging large scale industrial plantation to foster growth of forest industries.

The problem of forest preservation and protection was no more to be separated from the lifestyle of tribals. The approach required a shift from the dependence on law and executive

implementation to dependence on the conscious and voluntary participation of the masses. This required educating the masses as well as appropriate education of the departmental employees. In this background the Forest (Conservation) Act of 1980 was enacted with which we propose presently to deal after noticing certain provisions of the Indian Forest Act of 1927.

The Forest Act of 1927 deals with four categories of forests, namely- Reserved Forests in Chapter II, Village Forests in Chapter 111, Protected Forests in Chapter IV, Non-Government Forests in Chapter V. The first three categories deal with forests which are Government property while the last refers to control over forests and lands which are not Government property. Most of the private forests covered under the fourth category were earlier parts of estates which have now been abolished and thus such forests have also become Government property. In Uttar Pradesh there have been several amendments of the Forest Act and Chapter V-A has been incorporated which provides for control over forests of claimants. Detailed procedure has been laid in Chapter II in respect of reserved forests. Section 3 vests power in the State Government to reserve forests. The process for reservation of forests starts with section 4 and ends up with the final declaration under section 20. Section 27 vests power in the State Government to declare a forest to be no longer reserved.

Excerpt from Rural Litigation & Entitlement Kendra v. State of U.P, 1989 AIR 594

1. The primary issue in Rural Litigation & Entitlement Kendra v. State of U.P. concerned:

a. Industrial pollution in Delhi

b. Limestone quarrying in Dehradun-Mussoorie belt

c. River pollution in Ganga

d. Displacement due to dam construction

2. The Rural Litigation & Entitlement Kendra v. State of U.P is significant because it:

a. Introduced the Polluter Pays Principle

b. Recognized the right to clean environment under Article 21

c. Developed Absolute Liability

d. Introduced Sustainable Development formally

3. The Indian Forest Act, 1927 primarily classifies forests into:

a. Reserved Forests, Protected Forests, Village Forests

b. National Parks, Wildlife Sanctuaries, Biosphere Reserves

c. Government Forests and Private Forests

d. Revenue Forests and Community Forests

4. Under the Indian Forest Act, 1927, the highest degree of protection is given to:

a. Village Forest

b. Protected Forest

c. Reserved Forest

d. Community Forest

5. Assertion (A): The Supreme Court ordered the closure of certain limestone quarries. Reason (R): Environmental protection outweighs private commercial interests when life and ecology are threatened.

a. Both A and R are true, and R is the correct explanation

b. Both A and R are true, but R is not the correct explanation

c. A is true, R is false

d. A is false

6. Which constitutional provision was expanded in Rural Litigation & Entitlement Kendra v. State of U.P. to include environmental protection?

a. Article 14

b. Article 19(1)(g)

c. Article 21

d. Article 300A

7. The Public Trust Doctrine was explicitly applied in the case of:

a. Rural Litigation & Entitlement Kendra v. State of U.P.

b. M.C. Mehta v. Kamal Nath

c. Vellore Citizens Welfare Forum v. Union of India

d. Subhash Kumar v. State of Bihar

8. The Precautionary Principle and Polluter Pays Principle were declared part of Indian law in:

a. Rural Litigation & Entitlement Kendra v. State of U.P.

b. Vellore Citizens Welfare Forum v. Union of India

c. Indian Council for Enviro-Legal Action v. Union of India

d. M.C. Mehta v. Union of India

9. Under the Indian Forest Act, 1927, before declaring a Reserved Forest, the State Government must:

a. Obtain approval of Parliament

b. Obtain approval of Gram Sabha

c. Consult National Green Tribunal

d. Conduct settlement of rights of local inhabitants

10. In a Reserved Forest, unless expressly permitted:

a. Grazing is automatically allowed

b. All activities are prohibited

c. Timber cutting is freely allowed

d. Hunting is permitted

11. Which section of the Indian Forest Act, 1927 empowers the State Government to regulate or prohibit activities in Protected Forests?

a. Section 32

b. Section 30

c. Section 26

d. Section 41

12. Which Fundamental Duty supports environmental protection jurisprudence?

a. Article 51A(a)

b. Article 51A(c)

c. Article 51A(g)

d. Article 51A(j)

13. The Forest Settlement Officer is appointed under which section of the Indian Forest Act, 1927?

a. Section 4

b. Section 6

c. Section 10

d. Section 15

14. The power to declare Village Forests is provided under:

a. Section 20

b. Section 28

c. Section 29

d. Section 35

15. Under the Indian Forest Act, 1927, Protected Forests are governed under:

a. Chapter II

b. Chapter III

c. Chapter IV

d. Chapter VII

Answers

1. (B)
2. (B)
3. (A)
4. (C)
5. (A)
6. (C)
7. (B)
8. (B)
9. (D)
10. (B)
11. (A)
12. (C)
13. (A)
14. (B)
15. (C)