



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.B.

Semester: IV

SUBJECT: Environmental Laws

SUBJECT CODE: LLB404

NAME OF FACULTY: Mohammad Aqib

Lecture-27



LECTURE 27: Penalty and Power to make rules under National Environment Tribunal Act

Penalty for failure to comply with orders of Tribunal

Whoever fails to comply with any order made by the Tribunal, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten lakh rupees, or with both

Offences by companies

(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that; the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Proceedings before the Tribunal to be judicial proceedings

All proceedings before the Tribunal shall be deemed to be Judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Members and staff of Tribunal to be public servants

The Chairperson, Vice-Chairperson and other Members and the officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson, Vice-Chairperson or other Member of the Tribunal or any other person authorised by the Chairperson, Vice-Chairperson or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Power to make rules

(1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the particulars which an application shall contain, the documents and the fee which shall be accompanied with it and the limit of annual income of a person so as to enable him to make application without paying any fee, under sub-section (5) of section 4;

(b) any such matter in respect on which the Tribunal shall have powers of a civil court, under clause (i) of sub-section (4) of section 5;

(c) the case or cases which, having regard to the nature of the questions involved, requires or require! to be decided by a Bench of more than two members, under clause (d) of subsection (3) of section 9;

(d) procedure for the investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson or other Member of the Tribunal under subsection (3) of section 13;

(e) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson and other Members under section 14;

(f) financial and administrative powers of the Chairperson over the Benches under section 16;

(g) the salaries and allowances and conditions of service of the officers and other employees of the Tribunal under sub-section (3) of section 17;

(h) the person or the authority by whom, the manner in which and the purposes of environment for which the amount of compensation credited to the Environmental Relief Fund shall be utilised under

sub-section (2) of section 22; and

(i) any other matter which is required to be, or may be, prescribed.