



Judicial Creativity on Public Trust Doctrine in Environmental Protection

Haribansh Singh, (Ph.D.), Department of Law,
University of Allahabad, Prayagraj, Uttar Pradesh, INDIA

ORIGINAL ARTICLE



Corresponding Author

Haribansh Singh, (Ph.D.),
Department of Law,
University of Allahabad,
Prayagraj, Uttar Pradesh, INDIA

shodhsamagam1@gmail.com

Received on : 05/10/2021

Revised on : -----

Accepted on : 12/10/2021

Plagiarism : 09% on 06/10/2021



Plagiarism Checker X Originality Report

Similarity Found: 9%

Date: Wednesday, October 06, 2021

Statistics: 468 words Plagiarized / 5179 Total words

Remarks: Low Plagiarism Detected - Your Document needs Optional Improvement.

Judicial Creativity on Public Trust Doctrine in Environmental Protection Abstract The public trust doctrine is a legal concept which has connotation and ramifications in many fields. This doctrine has its roots in ancient Roman law. But it is so pertinent that still now it has maintained a status of celebrated principle that brings a philosophical foundation for contemporary conservation.

ABSTRACT

The public trust doctrine is a legal concept which has connotation and ramifications in many fields.¹ This doctrine has its roots in ancient Roman law. But it is so pertinent that still now it has maintained a status of celebrated principle that brings a philosophical foundation for contemporary conservation. Initially the doctrine was limited to US and UK Courts which can be easily evidenced by the examination of judicial decisions of their jurisdictions. But the range has been widened with the expansion of the concept of environmental conservation across the planet. Landmark Kamal Nath² verdict of the Apex Court is an entry point of this doctrine in Indian environmental jurisprudence. From then this doctrine has been widely and repeatedly applied by the judiciary for conservation of natural resources and to draw attention of the policy makers in the preservation of the natural resources in pristine conditions.

The application of the doctrine involves multi-contentious issues of nature of the State ownership and private ownership of the property. These conflicting positions and concepts demand the solution to resolve the issue of uncertainty in the society and ensure preservation and conservation of resources without causing any intrusion in private ownership of property.

In this paper it has been attempted to trace the growth and application of the doctrine in Indian environmental jurisprudence. The aim is confined to analyse the judicial decisions comprehensively and to offer a more suitable application and option for the policy makers in India.

KEYWORDS

Environment, Judiciary, Sustainability, Conservation, Public trust doctrine.

INTRODUCTION

According to *John Locke*, it is morally permissible to 'take from nature', mix one's labour with the taking, and claim the result as one's property, so long as one leaves 'as much and as good for others.'³ This approach is sound good but it is not possible to recreate some natural resources extracted from the earth. So, one has to be more careful in consumption and utilization of resources and also endowed with responsibility to find a replacement, if possible. Environmental ethics should be followed and State is also under obligation to keep environment intact.

The doctrine deserves appreciation as it is popular for preserving a worth, significance and moral values in the arena of natural resources.⁴ India is a common law country so it can easily be justified the basis of it in the English Common Law but an inquiry revealed that the Indian Courts frequently referred and cited the various American Courts decisions on deciding matters before them. It was through American cases, as the Court acknowledged, that the doctrine had been expanded to protect trust property for ecological and environmental values. After extensive references to American case law, the Court came to the conclusion that the public trust doctrine in India should be expanded to all ecosystems operating in natural resources.⁵

The responsive attitude of the judiciary to evolve and make application of this doctrine facilitated in achievement of aim to conserve nature and regulate the activities causing destruction to the natural resources. However, the judiciary faced its constraint in dealing with such matters. Inadequacy can be evidenced by the mass agitation and protest of the affected people particularly tribal's, NGO against alienation and the transfer of resources in the private ownership.

Origin and History

The doctrine has its ancient roots. Though the concept has got recognition in modern context but the entire civilisation have been filled with numerous illustrations regarding principles and efforts in conservation of natural resources. The protection of environment and ecology are the priority of the nations within their jurisdiction. In India, Vedas, Purans, Smritis taught various values to the people regarding worship of nature. The protection and conservation of plants, rivers, mountains, biodiversity, and animals are the sacred duty of the people, was preached by our Saint and social reformer. The theory of rebirth and cycle of life forms would be foundational assumptions in this regard.

The Doctrine of Public Trust was in existence at the time Roman Emperor,⁶ but the US Supreme Court articulated this doctrine in its modern form in a leading case.⁷ The gist of the doctrine is to recognise the rights of public over the natural resources. The US Court not only articulated the concept but also expanded its ambit by bringing entire gamut of environment in this doctrine. On the other hand, only specific types of resources were covered under the Roman law and English Law. The essence was the same in all legal system which was the recognition of the rights of general public and limitation on the State's power in utilisation of natural resources. The Approach of the US Supreme Court was also referred by the Indian Supreme Court in making observation on this doctrine.⁸

The Supreme Court acknowledged this doctrine as a part of Indian law in the various leading cases⁹ and made observation that Indian jurisprudence includes the public trust doctrine. The Court defined the role of the State as a trustee of natural resources that the legal obligation on the state is to not only conserve and protect but also use natural resources for the benefit of general public.

Position in UK

The origin of this doctrine rests in English common law. The doctrine endowed the people of present and future generations by imposing fiduciary duty on governments to protect precious gifts of nature for their benefit. The protection of navigable waterways was the main resources earlier on which doctrine has its function but afterwards other resources forest, water, wildlife and other natural resources' had been the subject matter of the doctrine. The idea of ATL (Atmospheric Trust Litigation) was limited to protection of atmosphere as at least one component of the natural resources. It involved the mitigation of emission of green house gases which is responsible for climate change.¹⁰

This doctrine can also be traced out in *Magna Carta* which was at later stage interpreted by the Court for protection of public rights, public lands, tidal lands, restriction on the Crown and the obligation of the sovereign.¹¹ The scope of the doctrine is limited and it is not well formed in UK.

Position in USA

In the technical sense it may be argued that the doctrine is one which must presume the significance of the natural resources and function as binding and enforceable principle. Such assumption was predicted in US jurisdiction but the analysis of situation after *Mono Lake case* show different approach as the doctrine was treated by the US Court as a complementary of the legislative efforts in the legal system. It was modestly important component of a statute-based, agency-driven environmental law system.¹²

The US Supreme Court, Illinois *Central Railroad Company v. People of the State of Illinois*,¹³, applied the doctrine in narrow sense as it was extended to the bed or soil of navigable waters. It is worthwhile to reveal that the State Sovereignty on such resources was adjudicated as restricted or limited mode. The Court has aptly made certain that these resources were owned by the State under trust therefore, its use should be confined for public use only and alienation or disposition was impermissible.

The US Supreme while delivering the judgment widened the scope of the doctrine and elaborated the state responsibility in patent words. However, the substance of the doctrine was summarised by the Court in another leading decisions which is popular as *Mono Lake case*.¹⁴ The Supreme Court of California, in the case of *National Society v. Superior Court of Alpine Country*,¹⁵ has made a farsighted observation and widened the scope. It was not confined to mere pronouncement of the power bestow upon the State rather put a condition that all the public property must be used for public purposes only. The articulation of the doctrine by the Court is noteworthy. On the one hand, the absolute alienation of the property held by the State under trust was not prohibited. On the other hand, it was also made obvious that unrestricted power does not given to state to discharge its duties capriciously as the importance of the people's common heritage for example streams, lakes, marshlands and tidelands etc., cannot be undermined. The State is under obligation to ensure the availability of natural resources to public free of cost. The discharge of function by the State is subject to a high degree of judicial scrutiny. The judicial scrutiny must make a clear demarcation between the State general obligation and specific obligation regarding resources held by it under public trust.¹⁶

In *Gould vs. Greylock Reservation Commission*¹⁷, the Supreme Judicial Court of Massachusetts reiterated the relevance of the doctrine in preservation of natural forests which was acquired by the State for construction of Aerial Tramway. The litigation was brought by the litigants as beneficiaries of the public trust which was accepted by the Court. Lease and management agreement both were declared invalid and use of lands for commercial venture for private profit was held as impermissible.

Public Trust Doctrine in India

(a) Indian Constitution

The fundamental right guaranteed under Article 21 of the Constitution of India has been widely interpreted by the Supreme Court of India. Right to life with human dignity is meaningless without availability of pollution free natural environment to everyone. Pollution free air and water is included in this article. Right to health and hygienic conditions are sine qua non for enjoyment of precious gift of our Constitutional maker. It would be also pertinent to mention relevant articles of the Constitution of India which are directly or indirectly significant for availability of natural resources and decent environment to the 'we the people of India'. Part IV has its own significance as jewels of obligations of State in Constitutional spirit are nowhere but mentioned in this Part of the Indian Constitution as Directive Principles of State Policy.

The idea of duties of the State has found its place in Articles 47, 48-A and the citizens fundamental duties are stated in Article 51-A. The State is under an obligation to raise the level of nutrition and the standard of living and to also improve public health. These are the primary duties of the State. Moreover, the State shall also take steps to prohibit the consumption of intoxicating drinks and of drugs which are injurious to health. Use of these drinks and drugs may be permitted for medical purposes.¹⁸ Under Article 48-A, the State is obligated to make endeavour for protection and improvement of the environment. It is also the duties of the State to safeguard the forests and wildlife of the country. Similarly Article 51-A contains the fundamental duties for the citizens. The Supreme Court of India realised that deep significance of these articles in governance and emphasised on their utility in policy framing, enactment of green legislation and protection of fundamental rights.¹⁹

Though, these provisions are not part of fundamental rights and therefore not justifiable as the rights guaranteed under Part III of the Constitution of India. But its significant can be perceived by the observation of the Apex court. The Court observed that today's society interaction with the nature is also extensive that environmental question has assumed proportions affecting all humanity. Where an administrative action or order of the Government is alive to the various considerations requiring throughout and deliberation and has arrived at a conscious decision after taking them into account, it may not be for the court to interfere in the absence of mala fides. On the other hand, if relevant considerations are not borne in mind irrelevant considerations influence the decision, the court may interfere in order to prevent a likelihood of prejudice to the public. When the Court is called upon to give effect to the Directive Principle and the fundamental duty, the Court is not to shrug its shoulder and says that priorities are a matter of policy and so it is a matter for the policy-making authority. The Court is under obligation to scrutinize the action on the parameters of inclusion of relevant considerations and exclusion of irrelevant. This is a bare minimum function which the Court has to discharge but judiciary can go beyond that in suitable situations and pass appropriate directions.²⁰ The Supreme Court of India has also expressed the view in *Bhim Singh v. Union of India*²¹, that in interpreting the Constitution, due regard has to be given to the Directive Principles which has been recorded as the soul of the Constitution in the context of India being the welfare State.

(b) Judicial Creativity

The Supreme Court of India for the earliest occasion in *M.C. Mehta v. Kamal Nath*,²² came to conclusion that all natural resources are held in "trust" by the Government. The Court elaborated the doctrine as it direct the government to take measures for protection of natural resources to ensure the availability for the use and enjoyment of the general public. Alienation in favour of private person or commercial use for private profit is not permitted under this doctrine. Public has right to expect from the State to maintain certain lands and natural resources in their natural condition.

The Court while delivering the judgment touched upon the history and legal basis of the doctrine. Ancient legal theory, position in UK which is followed in US legal system had been dealt by the Court. Lease granted in favour of span motel was treated as invalid and importance of the precious gift of nature forest land was perceived by the Court. It was also realised that ecologically fragile land and area which is full of scenic beauty cannot be alienated in favour of private person for any commercial gain. The Court has also considered the view of US Court regarding Prof. Sax elucidation on this matter. Three types of restriction on the government action had been identified by Prof Joseph L. Sax. The restriction premised on the viewpoint that resources being gift of nature should be confined to public use only, no alienation even against fair price and its must be made available for public. This doctrine gives a legal device to the citizens to use wisely to protect their rights and fight against commercial or private exploitation of natural resources. Prof Sax view is that the resource should be kept by the State in such a condition to make it available for certain traditional uses, such as navigation, recreation, or fishery. The use of the property or resources must be in their peculiar and natural uses.²³

The Court while delivering judgment in this case traced the basis of Indian legal system into English common law and acknowledged that now this doctrine is well accepted component of Indian jurisprudence. The Court coming out the logic behind the doctrine explained that the natural resources owned by the State as trustee and public at large is a beneficiary of such resources. The State is not permitted to convert such resources for private use as trustee they are under obligation to protect natural resources for the use and enjoyment of the public. This obligation would be so wide to cover all types of resources waters, airs, forests, fragile lands, protected areas, sanctuary, aquatic areas etc. This doctrine puts limitation on the irresponsible approach of the State and ensures transparency in handling such resources. Absence of transparency and pathetic state of affairs had been shown in granting lease to the private person. The judiciary realised the application of the increasing needs of the complex society and point out that this doctrine may be applied to resolve the conflict between claims of the claimant who pleaded for maintenance of the nature in their pristine purity and the administrative machinery charged to ensure development by acquiring lands for establishing new business or commercial and encourage other types of activities for the well being of the people. In this case, the Court exposed the activities of the State in compliance of environmental laws of India and also partisan approach. Therefore, the Court can exercise its judicial creativity to correct any error or omission. Absence of any specific laws on any point does not give authority to alienate resources for commercial use. However, it is Legislature not the Courts which can resolve the conflict in a given area. If the law has already passed by the legislature, the Court can serve a mechanism or tool to determine legislative intent in exercise of its judicial power.

It is submitted that the judgment of the Supreme Court in *Kamal Nath case* is a noteworthy as the court made the doctrinal functional in Indian jurisdiction in very eloquent manner. This illuminating decision of the Apex Court is a high point in the growth of new jurisprudence by the judiciary in this realm for protection and preservation of environment. It is also worthwhile to express that the Court had analysed the realistic basis of the doctrine in concrete manner. The Court tried to ensure the preservation of aesthetic quality and the immaculate wonder of the natural resources by restricting the State in exercise of its power of transfer of natural resources for mercantile or personal use. The Court puts a rider of good faith for any alienation so as protect public interest and public good.

The public trust doctrine developed by the S.C. in *Kamal Nath Case*²⁴ was again followed by the S.C. in the case of *The Majra Singh v. Indian Oil Coporation*²⁵ and *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*.²⁶ In context of the doctrine, *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*²⁷ deserves special mention. In this case the main challenge was the order of the Allahabad High Court which quashed the agreement between the Nagar Palika and appellant. The Apex Court rightfully upheld the order of the High Court and thereby directed the demolition of the construction made in Jhandewala

Park. The Allahabad High Court came to conclusion that the construction of shopping complex and grant of permission to lease out the shops under an agreement which is unreasonable, unfair and atrocious, are impermissible. The doctrine was invoked by the High Court to quash the order and laid down that as a trustee of the park; the Nagar Palika has authority to transfer in favour of any private builder. It would be deprivation of right to life of the residents of the locality. The Court did not hesitate for directing the demolition of illegal commercial complex. Therefore, the Court has given hope to the people to have a pollution free air in their area. This is welcome steps in invoking the doctrine for protecting the rights. Again the intervention of the Apex Court in *M.C. Mehta v. U.O.I. (Taj Trapezium Case)*,²⁸ is noteworthy as it is a vibrant example of judicial activism. The Court vehemently acknowledged that the doctrine is an indivisible component of Indian jurisprudence. The ownership of State is limited as trustee to protect and preserve and also made available such resources for public use. Thus, the Court reiterated the concept of the doctrine in this case also and highlighted the significance in maintenance of common heritage for public good.

In *K.M. Chinappa v. Union of India*,²⁹ the the renewal of mining lease was under challenge. Lease was granted to Kudremukh Iron Ore Company in the Kudremukh National Park. It would be not out of context to bring up at this point that though many avenues are available for the people to raise their voice but they found the judiciary most convenient, reliable and a ray of hope for redressal of their grievances. In this case, the apex Court reiterated the doctrine as the natural resources are of aesthetic use and spotless beauty which cannot be replicated. So, it is beyond imagination to permit anyone to encroach and cause erosion for their own benefit.

In *Hinch Lal Tiwari v. Kamala Devi And Ors (2001)*³⁰ the Supreme Court of India again came forward for conservation of the community resources in general and water bodies (ponds, lakes, tanks) in particular. The importance of resources in maintenance of ecological balance was acknowledged by the Court. The necessity for preservation of proper and healthy environment was perceived as it is required to enabled people to enjoy and quality of life in real sense which is guaranteed for all. This is a landmark judgment and has been repeatedly invoked by the administration in protecting ponds and resources. This doctrine has once again been followed by the Apex Court in *State of W.B. v. Kesoram Industries Ltd.*,³¹ wherein it was recognised that deep underground water belongs to the State under public trust and othe State has been obligated to prevent its excessive exploitation. Under ground water is a national assets and it is beneficial for the entire community, it can be used but not owned by any one.

The analysis of the judicial decisions reveals that the State is not very prompt in dealing with environmental matters. They failed to perform its role in true spirit in preservation of resources. Specific legislations have also been enacted and by which number of authorities were created. But it reveals that they did not perform their functions and exercised their powers in inconsistent manner. The consequences are that the people have to take recourse of judiciary. *T.N. Godavarman Thirumulpad v. Union of India (2005)*³² judgment is very pertinent to state here. In this case the Apex Court has made very remarkable observation as the natural resources are the not a private property. These are the assets for whole India so central as well the state governments have to right to cause waste of any types of resources. These resources are not belonging to present generation; it should be made available for upcoming generations also. It is again came to light that how the government and its authority are responsible for maladministration and nefarious activities. In *Intellectual Forum v. State of A.P.*,³³ the grievance of the appellant society was in respect of alienation of tank bed lands of two tanks, which were situated in the suburbs of Tirupathi town, by the government in favour of some governmental agencies for the construction of houses. The questions were raised in this case regarding the role of the Court in preservation of water bodies and appropriate order needed in this case on the basis of available facts. The Court opined in very unambiguous terms that the preservation and protection of the tanks

conferred on the government and no doubt natural resources like lakes are indispensable for sustenance of environment and held by the State under trust. However, alienation of such resources is not absolutely prohibited but it expect from the government to realise the glory and values of nature and refrain from committing any act or omission in management of such properties. It should be preserved for the benefit of entire community and care should taken to avoid any infringement of the public rights.

It is submitted that the court is quite reasonable and justified in this case. The Court has taken into consideration the basic necessity such as right to shelter but refused to accept the claim of the respondent regarding violation of the valuable right to shelter in case of revocation of impugned orders. Another request of continuation in the veil of investment of money in developing land was also rightly rejected by the Court.

In *Fomento Resorts and Hotels Ltd. v. Minguel Martins*,³⁴ the S.C. has reiterated the doctrine of public trust and observed that natural resources including forests, water bodies, rivers, sea shores etc. are held by the State as a trustee on behalf of the people and especially for the future generations. In this, the range of the doctrine was kept high as the Court emphasised on the free and continual availability of natural resources which are owned by the State under trust and also the power of alienation to such resources are controlled as the Court can take affirmative step to protect the interest of the general public. This restriction is on government because of the doctrine which allow the enjoyment of the resources by the people rather than to any private person. The action of the government is subject to judicial scrutiny in case of any challenge on violation of the doctrine. The very soul of the doctrine is to put embargo and limits on State power and to promote public interest of the present and future generations in reminiscent manner. This obligation is extended to renewable and non-renewable resources and to forests, monuments, parks, the public domain and other public assets.³⁵ It was clarified by the court that the doctrine is a instrument for giving primacy of public rights over private rights and take initiative to maintain such resources for longer period for uninterrupted enjoyment.³⁶ However in *Susetha v. State of Tamil Nadu and Ors*³⁷, the Court has limited the range of the principle to natural water storage resources and artificial lakes were excluded from the purview of protection.

The Supreme Court of Indian in *Association For Enviornment Protection vs State Of Kerala*(2013)³⁸ matter came as Appeal for restraining the respondents from constructing a building (hotel/restaurant) on the banks of river Periyar within the area of Aluva Municipality. The Court did not hesitate to direct the demolition of the structure raised for establishing a restaurant. It was highlighted by the Court that as the Gods Own Country Kerala is popular for protection of ecology and environment in general and rivers and the lakes in particular. The doctrine was reiterated and the obligation of the State under Article 48-A and fundamental rights guaranteed under Article 21 were recognised. In *Reliance Natural Resources Limited v. Reliance Industries Limited*³⁹, the Supreme Court read over the Constitutional mandate for giving natural resources to the people and the doctrine was again recognises as a part of Indian environmental jurisprudence. The State owns the resources under trust and for complete protection in favour of public. The private interest was excluded.

It is pertinent to mention famous 2 G spectrum case. In *Centre for Public Interest Litigation and others v. Union of India and others*⁴⁰, the Apex Court accepted that though natural resources has no universally recognized definition but its utility to mankind cannot be undermined. It is significant to mention that the Court has given verdict that the natural resources like spectrum can only be alienated by fair and transparent method and the method applied by the State should in consonance with the equality principle based on justice and fairness embodied in the Indian Constitution.⁴¹ All the people should have equal opportunity and procedure in distribution of such resources must be just, fair and transparent free from any kind of arbitrariness.

As natural resources are public goods, the doctrine of equality, which emerges from the concepts of justice and fairness, must guide the State in determining the actual mechanism for distribution of natural resources. In this regard, the doctrine of equality has two aspects: first, it regulates the rights and obligations of the State vis-à-vis its people and demands that the people be granted equitable access to natural resources and/or its products and that they are adequately compensated for the transfer of the resource to the private domain; and second, it regulates the rights and obligations of the State vis-à-vis private parties seeking to acquire/use the resource and demands that the procedure adopted for distribution is just, non-arbitrary and transparent and that it does not discriminate between similarly placed private parties. It should be guided by the Constitutional principles for larger public interest.⁴² However, in *RE: SPECIAL REFERENCE NO. 1 OF 2012*, the Apex Court made it clear that Auction is not only permissible method for distribution of natural resources but since assets belong to people, it is responsibility of the State to adopt any non-discriminatory method of distribution for larger public good.

Meghalaya High Court has also considered this doctrine in *The Principal St Anthony's College vs The State Of Meghalaya And Ors*⁴³. Wherein the cause of the heavily polluted water of a natural stream was brought and observed that the State is under the binding duty to protect rivers by taking recourse to evict encroachers.

CONCLUDING OBSERVATION

The doctrine is very effective at the theoretical level in preservation of natural resources. Once purpose is fixed i.e. for the public good, it reflects the goal is accomplished but the situation is so much complex and intertwined. The debate of *Antropo-centric* and *Eco-centric* approach posed a challenge to access the value and utility of resources and strategy and need for conservation. The development of technology has led an opportunity to accomplish genetic manipulation and use of resources in considerable amount. Still, there is a large area which shows only minimal human effect, most of which is desert. How much is enough is a tackling question to be resolved. Each age has spawned its environmental values and concern. It is argued that the resources must be conserved which required the observance of balance of nature, minimal use, equilibrium and stability. But it is not easy as the concept is itself vague and there is no consensus possible in diverse nature on ecological measurement and legitimate use of resources. However, it may be possible to agree to extend the theory of equal entitlements of all the people of basic necessities of life and restricting the State in alienating such resources so as to pass the ecological cost of rich to the poor or permit them to consume more than the fair share.

The main tools of the justice delivery system in India are the law made by the legislatures and decisions of the Apex Court or High Court on any matters. But sometimes, the Court went beyond the traditional tools and techniques and tried to find out the solution of problems in hand from the international instruments, foreign decisions and comparative laws. This is an example of broad judicial vision. Indian judiciary endowed with such vision. It is pertinent to mention that the Public Trust Doctrine has been accepted and recognised by the Indian judiciary as a part of Indian Environmental Law. It has been widely applied in various cases discussed earlier in this research paper. But some issues remain unresolved in application of this doctrine as there is lack of clarity on the core content of this doctrine. Shibani Ghosh identified four points in this regard which are following⁴⁴:

1. Courts in India are yet to provide a reasonably comprehensive definition of the doctrine.
2. Case law analysis does not reveal a rationale for why all natural resources deserve special protection of the doctrine.

3. Its value as a legal principle does not seem to be limited to conservation. Case analysis does not provide much guidance on how constituencies are to be identified, and even less on which of the constituencies should be given preference in case of a conflict.
4. All major public trust cases in India have relied on the doctrine only in conjunction with other statutory provisions. It is difficult to predict the outcome of a case in which the doctrine is the only legal principle with no other substantive law relevant to the cause of action.

REFERENCES

1. The discourse in this paper is limited to only one aspect which is in the milieu of conservation of natural resources in the light of landmark judicial decisions.
2. *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388.
3. Jamieson, Dale (ed.), *A Companion to Environmental Philosophy*, 386 (Blackwell Publishers, 2001).
4. Tacks, David, "The Public Trust Doctrine, Environmental Human Rights and the Future of Private Property", 16 N.Y.U.ENVTL. L.J.711 (2008) https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1751&context=faculty_Scholarship (Visited on 13/02/2021).
5. Ghosh, Shibani (ed.), *Indian Environmental Law-Key Concepts and Principles* 235 (Orient BlackSwan Hyderabad, 2019).
6. This doctrine was established by the Roman law as a legal concept.
7. *Illinois Central Railroad Company v. People of the State of Illinois* (1892).
8. *The Intellectuals Forum, Tirupathi v. State Of A.P. & Ors* on 23 February, 2006 Indian Kanoon - <http://indiankanoon.org/doc/1867873/> 17(Visited on 23/04/2021)
9. *M.C. Mehta v. Kamal Nath*, (1997); *M.I. Builders v. Radhey Shyam Sahu*, (1999)
10. Freedman, Bradley & Shirley, Emily, "England and the public trust doctrine", *Journal of Planning & Environment Law*. p.1 (2014) <https://static1.squarespace.com/static/571d109b04426270152febe0/t/576c4fb4725e25e4c65d4066/1466716084657/BradleyFreedman-EmilyShirley-2014ArticleEnglandandthePublicTrustDoctrine.pdf>(Visited on 13/02/2021)
11. Ibid. at
12. Owen, Dave, "The Monolake, the Public Trust doctrine, and Administrative State" *University of California, Davis* p.1101 Vol.45(2012). https://lawreview.law.ucdavis.edu/issues/45/3/Topic/45-3_Owen.pdf (Visited on 10/03/2021)
13. 146 US 537 (1892)
14. *National Society v. Superior Court of Alpine Country* 33 Cal 419 5 33 Cal 419
16. Sax, Joseph L., "The public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention", *Michigan Law Review*, Vol.68 No.3 (Jan.1970) pp. 471
17. 350 Mass 410 (1966). This case is referred by the Meghalaya High Court in *The Principal St Anthony's College vs The State Of Meghalaya And Ors* on 17 April, 2014 ; <http://indiankanoon.org/doc/63908935/> 11(Visited on 13/02/2021)
18. Article 47of the Indian Constitution.

19. The Intellectuals Forum, Tirupathi v. State of A.P. & Ors on 23 February, 2006 Indian Kanoon - <http://indiankanoon.org/doc/1867873/> 17 (Visited on 23/05/2021).
20. Shri Sachidanand Pandey and Ors. v. State of West Bengal and Anr.) MANU/SC/0106/1991: AIR 1991 SC 420: AIR 1987 SC 1109 (1997) 1 SCC 388: AIR 1987 SC 1109: AIR 2000 SC 1256.
21. (2010) 5 SCC 538
22. (1997) 1 SCC 388
23. Sax, Joseph L., "The Public Trust Doctrine in Natural Resource Law- Effective Judicial Intervention", *Michigan Law Review*, p.477 Vol.68:471 <https://www.law.berkeley.edu/files/CLEE/Sax68MichLRev471.pdf> (Visited on 23/05/2021).
24. *Ibid.*
25. AIR 1999 J&K 81
26. (1999) 6 SCC 464
27. (1999) 6 SCC 464
28. (1997) 2 SCC 653
29. AIR 2003 SC 724 (736)
30. (2001) 6 SCC 496; <http://indiankanoon.org/doc/870673/> (Visited on 28/05/2020).
31. (2004) 10 SCC 201
32. <http://indiankanoon.org/doc/1026316/> (Visited on 02/06/2021).
33. (2006) 3 SCC 549
34. (2009) 3 SCC 571
35. *Ibid.*
36. *Ibid.*
37. (2006) 6SCC 543
38. <http://indiankanoon.org/doc/111985577/> (Visited on 28/05/2021).
39. (2010) 7 SCC 1, P.
40. 3 SCC 1 : (2012) 2 SCALE 180 ; <http://indiankanoon.org/doc/70191862/> (Visited on 19/05/2021)
41. Article 39(b) of the Constitution of India.
42. *Supra* 38.
43. *The Principal St Antonys College vs The State Of Meghalaya And Ors* on 17 April, 2014 available at <http://indiankanoon.org/doc/63908935/> 11 (Visited on 18/04/2021).
44. Ghosh, Shibani (ed.), *Indian Environmental Law-Key Concepts and Principles* 256 (Orient BlackSwan Hyderabad, 2019).
