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THE FALL OUT OF THE BAGHJAN GAS BLOWOUT: Need for Stricter Regulations on Public Sector Undertakings?

Agrata Das & Arunav Bhattacharya

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THE FALL OUT OF THE BAGHJAN GAS BLOWOUT: Need for Stricter Regulations on Public Sector Undertakings?

*Agrata Das & Arunav Bhattacharya**

[Abstract: On 27th May 2020, there was a blowout in a gas well Baghjan in Tinsukia district of Upper Assam. The gas well, operated by Oil India Limited (OIL), started to leak out gas and condensate in an uncontrollable manner. On 9th June, the blowout became a full fire blaze leading to an explosion of anger and resentment amongst the local people against the inefficient management of OIL. The inept handling of the disaster led to the displacement of the local population who lost their homes and livelihood and were cramped inside relief camps amid the COVID-19 pandemic. It led to irreparable damage to the flora and fauna of the surrounding habitat due to its strategic location away from the Dibru-Saikhowa National Park. The explosion uncovered major lapses by OIL, which was met with protests and demonstrations against its lack of supervision, planning and handling of operations. An Expert Panel in its report held that the PSU did not have the required permissions to carry out drilling and other operational activities in the area. Violations of various sections of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act were uncovered in the report by the Panel. Amidst the plethora of ethnic voices venting out their anger against the serious lapse of duty by OIL, this paper tries to analyse the issue at length ranging from the legislative violations by OIL, its liability, damage to the people and the natural habitat. Lastly, it will touch upon how the Indian Constitution provides for certain principles and safeguards to ensure protection and development of the Environment for public benefit.]

I

Introduction

The Blowout Incident at the Baghjan Oil Fields

The Baghjan incident did not just affect the lives of the people residing in the nearby villages but also raised several questions pivotal to environmental (mis)management coupled with administrative discrepancies in a state which is

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otherwise unique for its biological diversity. The incident has clearly shown the importance of fixing liabilities of the administrative bodies responsible for such catastrophe. With the mounting cost of damages, both on the environment and surrounding human settlements, adducing liabilities to these bodies for transgressing the rules and regulations of various laws is a crucial question that needs immediate answer. The incident has served as an alarm against the dilution of the eco-sensitive zones surrounding the national parks, wildlife sanctuaries, and protected areas under the veil of business and boosting production in ecologically fragile regions. The government's plan for a *self-regulatory mechanism*¹ of environmental safeguards for industries can lead to several unwanted consequences if it is not met with strict adherence of the law of the land, and ensuring a stringent mechanism for punishment in case of violation of the laws. Apart from the administrative flip-flops, defiance of the laws, the incident has also managed to revive the age-old *environment protection-development* debate.

The state-owned Oil India Limited (OIL) reported that one of its oil rigs at well number 5 of the Baghjan Oil Fields suffered a blowout as the oil field started releasing uncontrollable natural gas and oil condensate. In the aftermath of the incident, the authorities tried to take control of the situation but to no avail. According to OIL, before the blowout, in May, the well was producing 100,000 Standard Cubic Meters Per Day (SCMD) of gas from a depth of 3,870 meters (4,234 yards).² Subsequently, the Assam Forest Department on 29th May issued a notice to the company after river dolphins and fishes of the nearby Dibru-Saikhowa National Park were found dead reportedly due to the well blowout in the rig. Following that, 'uncontrollable' flow of gas out of a natural gas producing well of OIL was reported on 4th June, 2020.³ To add to the woes of the company, the people residing in the vicinity, and the flora & fauna thereabout, a massive fire engulfed the damaged Baghjan oil well. The outburst proved to be so massive that the blaze could be seen 30 kilometers away along with a thick layer of smoke. On 10th June, the company and government officials notified that around 7,000 people from the area surrounding the Baghjan gas area were shifted to 12 relief camps.⁴

¹ Manju Menon & Anju Kohli, *Regulatory Reforms to Address Environmental Non-Compliance*, CENTRE FOR POL'Y RES. (07 Jun., 2019) available at: <https://cprindia.org/policy-challenge/7857/climate-energy-and-the-environment>.

² Rahul Karmakar, OIL may bring in U.S. experts to contain gas well blowout in Assam, THE HINDU (01 Jun., 2020) available at: <https://www.thehindu.com/news/national/other-states/oil-may-bring-in-us-experts-to-contain-gas-well-blowout-in-assam/article31718557.ece>.

³ Correspondent, *Assam sends notice to OIL after dead fishes found in lake near blowout site*, OUTLOOK (30 May, 2020) available at: <https://www.outlookindia.com/newscroll/assam-sends-notice-to-oil-after-dead-fishes-found-in-lake-near-blowout-site/1850822>.

⁴ Abdul Gani, *Massive Fire At Assam's Baghjan Oil Well, May Take Four Weeks To Douse Blaze*, OUTLOOK (09 Jun., 2020) available at: <https://www.outlookindia.com/website/story/india-news-massive-fire-at-assams-baghjan-oil-well-was-leaking-gas-since-may-27/354407>

Follow-up Actions taken by OIL

On the day of the incident, the blast took 2 lives of OIL personnel and 4 were injured who were working in the rig to control the gas leak; OIL, subsequently announced compensation to the families. Soon after the blowout, 1.5 km from the well site were declared as a safety zone. A relief camp was then set up with the help of the Tinsukia District Administration to evacuate the people nearby the place of incidence. Three relief camps were then set up at Baghjan Dighulturrang M.E. School, St. Joseph School-Baghjan Tea Estate, and Gateline LP School, where around 1610 families were camped after their evacuation from the affected areas.⁵

OIL along with the help of the district administration and local organizations and other associations ensured the necessary food and logistics such as electricity, water, toilets, medical aid to the people who were shifted to the relief camps.⁶ OIL along with the State Veterinary Department also did arrange food for the cattle.⁷ The affected people were shifted to around 12 relief camps.⁸

After the gas leak was reported on 29th May, a Crisis Management Team (CMT) from Oil and Natural Gas Corporation (ONGC), Vadodara was mobilized to assist OIL's efforts to control the leak. OIL made arrangements to bring the well under control on the day of blowout by installing Blow Out Preventer (BOP) and spraying adequate water.⁹ Also, arrangements were made for placement of water pumps in the nearby river and water pipelines were laid along with which an additional plot of land adjacent to the well site was arranged to create a big reservoir of water and set up well control equipment as per a press release by OIL. Moreover, gas and air quality were monitored continuously. As per the press release on 4th June, OIL claimed that digging of water reservoir near well site plinth was completed and under the supervision of ONGC CMT and OIL teams pumping of water and fabrication of fit for the purpose equipment at OIL workshop as well as equipment required for controlling the well and the removal of well site debris was arranged. M/s Alert Disaster Control, a Singapore based firm, was called up and two of their experts were to reach the site by 4th of June, 2021. According to the June 6th press release, OIL presented the then-present status of the well and claimed that associated condensates coming out with the gas were sprayed with

⁵ OIL, *Present Status of Well: Well is flowing Gas Uncontrollably*, (03 Jun., 2020) available at: <https://www.oil-india.com/UPLOAD/NewsFile/pfc94187Press%20Release%2003.06.2020.pdf>.

⁶ OIL, *Hon'ble Minister, MoP&NG takes stock of Baghjan Blowout*, (29 May, 2020) available at: <https://www.oil-india.com/UPLOAD/NewsFile/pfc80852Press%20Release-%20Honble%20Minister%20MoPNG%20takes%20stock%20of%20Baghjan%20Blowout.pdf>.

⁷ *Id.*

⁸ OIL, *Blowout in Gas Well of Oil India Limited at Baghjan, Tinsukia District, Assam* (11 Jun., 2021) available at: <https://www.oil-india.com/UPLOAD/NewsFile/pfc38572Press%20Release%2011-06-2020%20-%20OIL%20Blowout.pdf>.

⁹ *Supra* note 2.

water and collected in a nearby pond. Arrangements were also initiated to arrest condensate spillage to surrounding areas where space was created around the well site to prevent the contaminated water runoff to surrounding and nearby water body.¹⁰ The National Disaster Response Force (NDRF) was also deployed to take control of the situation and Air Force sent in three fire engines to control the blowout. Along with these efforts, the Army was kept in standby as of 6th June. While Guwahati based firm M/S Teri was lined up for bio-remedial of the oil spill in the area which was later engaged for Bio-remediation for impact of the blowout on the environment and site assessment being carried out conjointly, local fisherman with boat were engaged to identify oil spill, if any, in Maguri Motapung Beel.¹¹ Two high discharge water pumps were later set up at the site which was to be used for well control operations after the completion of testing and commissioning of the pumps. Apart from the efforts made to control the blowout, a team from 3 Corps Indian Army carried out a survey for constructing a Bailey bridge over the natural pond near the site.

Concerned with the possibility of a health crisis in the area, under OIL's Corporate Social Responsibility Project, Sparsha doctors and paramedics were engaged for proper screening and providing free medicine to the people of the nearby areas who were shifted to the relief camps. Awareness on health and hygiene was also carried out as of 16th June.¹² In order to carry out Environment Impact Assessment (EIA) Study, OIL engaged a National Accreditation Board for Education and Training (NABET) accredited to examine the blowout's impact on the environment and assess the socio-economic impact assessment in consultation with the stakeholders. The Forest Department ordered to constitute an expert committee that was tasked with the responsibility to assess the impact and suggest measures for immediate necessary actions.¹³ A team from Assam Agricultural University, Jorhat was engaged in assessment of the impact on vegetation.

To further look into the reasons and faults in part of the blowout, OIL formed a five-member inquiry committee to initiate actions on the employees of OIL if there is any prima facie evidence of human error found. Also, the Ministry of Petroleum &

¹⁰ *Supra* note 3.

¹¹ *Supra* note 4.

¹² OIL, *Blowout in Gas Well of Oil India Limited at Baghjan, Tinsukia District, Assam* (06 Jun., 2021) available at: https://www.oil-india.com/UPLOAD/NewsFile/pfc57913Press%20Release_OIL%20Baghjan%20Blowout_Status%20as%20on%2006.06.2020.pdf.

¹³ OIL, *Present Status of Well: Well is flowing Gas Uncontrollably* (07 Jun., 2021) available at: <https://www.oil-india.com/UPLOAD/NewsFile/pfc81924Press%20Release%20on%2007.06.2020.pdf>.

Natural Gas on 11th June 2020 set up an expert committee to identify the lapses in following laid down protocols and procedures which led to the blowout.¹⁴

II

Legal Violations

Violation of The Environment Protection Act, 1986 and the Environment Protection Rules, 1986

The mishap at Baghjan, had a very drastic environmental impact, along with violations of several sections of the Environment Protection Act, 1986 (hereinafter referred to as the Act of 1986).¹⁵ The Act of 1986 has authorized the Central government to take measures to improve and protect the quality of the environment.¹⁶ Further, sub-section 2 of section 3 of the Act of 1986 refers to the instances where such measures may be taken¹⁷ and Clause (v) of the same provision imposes restrictions on industrial operations if done so without adequate safeguards.¹⁸ Further, Clause (vi) lays down the procedures and safeguards for the prevention of such accidents which may prove detrimental to the environment¹⁹ and clause (vii) lays down the procedures and safeguards for the handling of hazardous substances.²⁰ A plain reading of these provisions is enough to conclude that OIL in the Baghjan case has violated section 3 of the Act of 1986 as the Indian Government didn't restrict OIL from carrying out its drilling operations in the area, which is an eco-sensitive zone. This had an adverse impact on the environment and also no specific safety measures were adopted by the company to avert such calamities. In the preceding factual matrix, OIL received a letter from the Ministry of Environment, Forest and Climate Change (MoEFCC), dated 11 May 2020 stating certain conditions which were to be complied by OIL for issuance of Environmental Clearance (EC) by MoEFCC.²¹ According to the conditions therein, the company was

¹⁴ OIL, *Blowout in Gas Well of Oil India Limited at Baghjan, Tinsukia District, Assam* (11 Jun, 2021) available at: <https://www.oil-india.com/UPLOAD/NewsFile/pfc38572Press%20Release%2011-06-2020%20-%20OIL%20Blowout.pdf>.

¹⁵ Act No. 29 of 1986.

¹⁶ Environment Protection Act, 1986, section 3.

¹⁷ Environment Protection Act, 1986, section 2.

¹⁸ Environment Protection Act, 1986, section 2(v).

¹⁹ Environment Protection Act, 1986, section 2(vi).

²⁰ Environment Protection Act, 1986, section 2(vii).

²¹ Letter from the Ministry of Environment, Forest and Climate Change to OIL Dibrugarh, F.No. J-11011/150/2016-IA II(I) (May 11, 2020) available at: http://environmentclearance.nic.in/writereaddata/Form-1A/EC/051120201150_2016_OilIndia_Letter.PDF.

called upon to take necessary measures to prevent fire hazards, soil overhead, containing oil spill and exploring the possibility of a ground flare and during operations, the overhead stack with knockout drums shall be installed.²² However, OIL lacked in fulfilling the conditions as even though they were certain about the risks associated with the possibility and aftermath of such mishap.

The establishment of a hazardous industry close to the National Park and wetlands surrounding it, raises questions about the Government's modus operandi. With regard to the Environment Protection Rules 1986 (hereinafter referred to as the Rules of 1986), Rule 3 of lays down the prohibition and restriction on the location of industries and the carrying on processes and operations in different areas. It points towards the factors on which the Central Government is capable of prohibiting and restricting the location of industries and carrying on of process and operations in different areas such as the biological diversity of that particular area.²³ Under the Ancient Monuments and Archaeological Sites and Remains Act, 1958²⁴ factors such as – *proximity to a protected area such as a sanctuary, national park; net adverse environmental impact likely to be caused by an industry; places protected under some treaty or conventions* are looked into before the grant of permission of operation.²⁵ It is perceivable that before granting EC on the Baghjan site to OIL, MoEFCC did not consider the rich biological diversity of the area. It can be further concluded that MoEFCC did not undertake a proper EIA concerning this site before granting over EC to OIL and in this instance, it is a clear case of grave ignorance and negligence of the law (*and perhaps certain degree of collusion among those with ulterior motives*) on the part of MoEFCC which led to such a disaster.²⁶ Further Rule 8 and 13 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 clearly states that as per the procedures and complying safeguards prescribed, no one shall handle or cause to be handled any hazardous substance and central government can consider to restrict or prohibit the handling the hazardous substances in different areas respectively. Clause (i) of Rule 13 says that the government can prohibit any activity on the grounds of hazardous nature of the substance (either in qualitative or quantitative terms) in terms of its damage-causing potential to the environment, human beings, and the living eco-system.²⁷ And as per these rules, the Central Government has exclusive rights to stop the drilling operations. Bearing these

²² *Id.*

²³ The Environment (Protection) Rules, Gazette of India vide number S.O. 844(E), 1986.

²⁴ Act No. 24 of 1958.

²⁵ Working Group Report, *Improving Heritage Management in India*, NITI AAYOG, GOVERNMENT OF INDIA available at: <https://niti.gov.in/sites/default/files/2020-06/Improving-HeritageManagement-in-India.pdf> (last visited 21 Apr., 2021).

²⁶ Jayashree Nandi, *Assam gas field may have flouted green guidelines*, HINDUSTAN TIMES (Jun 26, 2020) available at: <https://www.hindustantimes.com/india-news/assam-gas-field-may-have-flouted-green-guidelines/story-uhmEbsU6w7NUSCqdJmpVLJ.html>.

²⁷ *Supra* note 21.

provisions in mind, the Government should have stopped the operations on the Baghjan fields considering it to be hazardous in nature and a threat to human beings, environment, property and other living creatures. Despite this, the drilling operations which deal with hazardous substances continued to operate.

The Baghjan drilling operations by OIL have been considered as Category A project and as per the Environmental Impact Assessment (EIA) notification and Environmental Impact Assessment (EIA) Rules 2006 public hearing is mandatory for such projects. But, for the current assessment, there are no such records of public hearing even though the local people residing near the project place were against the operation since its very inception.²⁸ The court emphasized the principle of *sustainable development* in the *Lafarge Umiam Mining* case, where it was held that environmental clearance must be based on *doctrine of proportionality* and on the legislative policy which governs the activity and principles of natural justice.²⁹ The decision in this case has also highlighted the need for a public hearing because public participation gives valuable inputs which helps in deciding whether such operations can be carried at sites as eco-sensitive as that of Baghjan. But it is regrettable that almost after a decade of such emphasis made by the court no lessons have been learnt till date. The operation on the site continued even after strong disapproval from the National Board of Wildlife during its visit in 2013 voiced by its Standing Committee, and the Board robustly criticized OIL for seeking post-facto clearance even after started working without prior permissions.³⁰

Negligence on part of the oil drilling company can also be seen through their ignorance and non-compliance of Rules 4 and 13 of the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989, which was laid down to prevent chemical accidents from the industrial activities and mitigate the impact of such accidents. Rule 4 thereof entrusts the general responsibility of the occupier during the industrial activity and Rule 13 directs the entity to ensure the preparation of an emergency plan on-site. The company seems to have ignored both the rules which might be the reason of the gas leak and later the blowout. When the employees noticed a damaged spool during the time of the tragedy the blow out preventer (BOP) was removed from the well in order to replace the damaged spool and as per the experts present on the site, the blowout could have been controlled by the company if the early signs from the well were duly noticed by the authorities on time along with the necessary proactive action.³¹

²⁸ Jayanta Kalita, *Oil India Skipped Public Hearings Before Expanding Drilling in Assam's Baghjan*, THE WIRE (21 Jun., 2020) available at: <https://thewire.in/environment/exclusive-oil-india-skipped-public-hearings-before-expanding-drilling-in-assams-baghjan>.

²⁹ *Union of India and Others. v. M/S Lafarge Umiam Mining Pvt. Ltd.*, (2011) 7 SCC 338.

³⁰ *Supra* note 25.

³¹ *Supra* note 23.

The National Wildlife Action plan (2002-2016) which the MoEFCC came up with, holds its main objective to delineate the Economic Sensitive Zone (ESZ) in order to ensure the protection of wildlife around the national parks and wildlife sanctuaries.³² It also came into notice that OIL was in contravention of the guidelines for declaration of Eco-Sensitive Zone and the National Wildlife Action Plan so introduced. If the sensitive corridors exceed the estimated width of 10km of the Economic Sensitive Zone (ESZ), then the important ecological patches in the exceeded areas must be included in the ESZ but the drilling operations of OIL have continued since 2006 in the vicinity of the Dibru-Saikhowa National Park and now the company owns almost 25 drilling wells in that area.³³ In the last week of February 2017, the 24th Expert Committee Meeting on Eco-Sensitive Zones held a meeting for the declaration of ESZ around wildlife sanctuaries and National Park.³⁴ The Committee after detailed deliberation noted that there are oil drilling sites in the surrounding areas of the park and asked the State government to have a careful reconsideration of the matter and deferred the consideration in its present form.³⁵ The Standing Committee of National Board for Wildlife in its 31st meeting on August 2014 discussed the proposal of OIL for the use of 304.15 ha non-forest land-filling which falls within 10km from the boundary of Dibru-Saikhowa National Park; Borajan Padumoni wildlife sanctuary for expansion of the gas development in Tangakhat Nahorkotia Jorajan area; Doom Dooma Pengeri area; Tinsukia Dhola area and further observed that the project proponents place a *fait accompli* cases and the committee decided to recommend the proposal.³⁶

After a series of meetings of the ESZ expert Committee where drafts and the revised proposals had been submitted, the committee had deferred the proposal many times seeking details of the oil drilling sites and the impact of drilling on water quality. This was because OIL had raised the issue of oil drilling sites in the vicinity and in that the state representative informed that the extent of ESZ now ranges from zero to 8.7 km. The extraction operation was still in progress in the oil drilling sites and the state government considered OIL's request and revised the extent. The Committee was satisfied after detailed deliberations and the State Government's submission in the matter and recommended for the finalization of the draft

³² National Wildlife Action Plan, Government of India (2002) available at: [https://www.forests.tn.gov.in/tnforest/app/webroot/img/document/legislations/NATIONAL%20WILDLIFE%20ACTION%20PLAN%20\(2002-2016\).pdf](https://www.forests.tn.gov.in/tnforest/app/webroot/img/document/legislations/NATIONAL%20WILDLIFE%20ACTION%20PLAN%20(2002-2016).pdf) (last visited 21 Apr., 2021).

³³ *Supra* note 23.

³⁴ Ministry of Environment, Forest & Climate Change, *Minutes Of 24th Expert Committee Meeting For The Declaration Of Eco-Sensitive Zone (ESZ) Around Wildlife Sanctuaries/National Parks*, GOVERNMENT OF INDIA, available at – <http://moef.gov.in/wp-content/uploads/2017/06/Minutes%20of%2024th%20ESZ%20Expert%20Committee.pdf> (last visited 21 Apr., 2021).

³⁵ *Id.*

³⁶ *Supra* note 23.

notification.³⁷ It is to note, however, that Baghjan well no. 5 of OIL was at a distance less than a kilometer from the wetlands at the southern end of the park which is considered a part of the ESZ and this has proved to be a clear manipulation by OIL to get a clearance for the drilling operations from Government authorities.

Importance of Environmental Impact Studies

The apex court in the case of *T. N. Godavarman Thirumulpad v. Union of India*³⁸ emphasized the importance of environmental impact studies which was not conducted either by MoEFCC or any other Government appointee and authorized organization in the Baghjan case. Even though the court had taken into consideration all the three reports which were made at the behest of the project proponents and by agencies of their choice and submitted before the Expert Appraisal Committee (EAC); the court said that it would have been more appropriate, if the environmental impact studies by the authorized department were present.³⁹

The NGT (National Green Tribunal), hears cases related to the environmental issues such as environment protection, protection of forest and other natural resources, etc. In its judgement in the case of *Jeet Singh Kanwar & Anr. v. Union of India & Ors*,⁴⁰ it struck down the EC granted to a Chhattisgarh Thermal Power Plant and found that MoEFCC has *failed to anticipate the probable ill impact of the project, in conjunction with the pollution level caused due to the other projects already existing in the surrounding area*, before granting its approval. The thermal power plant was in close proximity to the fifth most critically polluted industrial cluster in India – the industrial town of Korba and was close to three surrounding power plants. The cumulative impacts of all these developments surrounding the thermal power plants had not been considered either by the EAC in its appraisal or by the MoEFCC before granting approval to the plant.⁴¹

³⁷ Ministry of Environment, Forest & Climate Change, *Minutes Of 37th ESZ Expert Committee for the Declaration of Eco-Sensitive Zone (ESZ) around Protected Areas (Wildlife Sanctuaries/National Parks/Tiger Reserves)*, GOVERNMENT OF INDIA, available at: <http://moef.gov.in/wp-content/uploads/2017/06/Minutes%20of%2024th%20ESZ%20Expert%20Committee.pdf> (last visited 21 Apr., 2021).

³⁸ *T. N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267.

³⁹ Astha Pandey, *T. N. Godavaraman Thirumulpad v. Union of India & others: A Case Study*, 15(4) GLOBAL J. OF HUMAN SOC. SCI. (2015) available at: https://globaljournals.org/GJHSS_Volume15/4-T-N-Godavaraman-Thirumulpad.pdf.

⁴⁰ *Jeet Singh Kanwar & Another v. Union of India & Others*, 2013 SCC OnLine NGT 1.

⁴¹ Shibani Ghosh, *Demystifying the Environmental Clearance Process in India*, NUJS L. REV. (2013) available at: <https://cprindia.org/sites/default/files/articles/03shibanighosh.pdf> (last visited 21 Apr., 2021).

In the case of *Gau Raksha Hitrakshak Manch v. Union of India & Ors*,⁴² NGT said that *the process of appraisal* requires application of mind independently and evaluation of the materials to find out whether it is worth granting approval. It was a case related to a port in Gujarat, and the tribunal highlighted the poor appraisal and further found out that the EAC accepted the project proponent's statements as 'gospel truth'. Also, the public had made some written representations which the EAC had failed to consider. The court ordered the MoEFCC to reconsider the clearance given to the project and EC was kept in abeyance subsequently.⁴³

Further in the case of *Ossie Fernandes v. Union of India*,⁴⁴ the NGT found that the final EIA draft was not available in the public domain and could 'allow all mischief to be done by the project proponent'. It also found that the EIA draft which was prepared before the public consultation had significant omissions as compared to the final EIA report.⁴⁵ The above-mentioned cases highlight that the authorities have clearly ignored their duties and obligations towards environmental protection and their faults have caused and are bound to cause serious disasters in the future. In the Baghjan gas blowout case, it is evident that there has been a gross violation of environmental and allied laws. Another point that must be scrutinized, in this case, is the conduct of MoEFCC, the Expert Appraisal Committees and other agencies granting EC to OIL for oil drilling in Baghjan area of Tinsukia District where the mishap happened.

Violation of Forest Laws by the Corporate Body

The Dibru-Saikhowa National Park, an Eco-Sensitive Zone (ESZ), is one of the 19 biodiversity hotspots in the world and is the only riverine island wildlife reserve. It is situated 12 km north of Tinsukia town, which is a commercial hub of Assam and 2 kms away from the Oil well mishap site and lies at the confluence of the Brahmaputra with three of its major rivers, Dihang, Lohit, and Siang. The national park extends over an area of 765 sq. km out of which 340 sq km comprises of the core zone lush with riverine forest, alluvial grasslands, wetlands, swamps, and semi-evergreen forests, etc. Royal Bengal Tiger, Elephants, Capped Langur, Hoolock Gibbons and Leopards, Black-Breasted Parrot Bill, Slow loris, Swamp Partridge, Yellow Weaver along with 608 other species of plants and 105 Butterfly species forms the core habitat live within the biosphere reserve.⁴⁶

⁴² *Gau Raksha Hitrakshak Manch v. Union of India & Others*, Appeal No. 47/2012.

⁴³ *Supra* note 41.

⁴⁴ *Ossie Fernandes v. Union of India*, 2012 SCC OnLine NGT 7, para 7.

⁴⁵ *Supra* note 41.

⁴⁶ Anwaruddin Choudhury, *Mammals, birds and reptiles of Dibru-Saikhowa Sanctuary*, 32(3) ASSAM, INDIA (1998).

Maguri Motapung, a large wetland situated 3.8 km away from Guijan Ghat (considered as the gateway of the Dibru Saikhowa National Park and Biosphere Reserve) was recognized as an Important Bird Area (IBA) by the Bird Life International as the area is home to some of the rarest bird species in the world.⁴⁷ Migratory birds like Baikal Teal, Ferrigunuous Duck, Ruddy Shelduck, Northern Pintail visit the beel. Maguri Beel is connected with the major perennial Dibru river in the north through a small channel. The beel is very rich in aquatic life and is home to the endangered Gangetic Dolphins and 104 other aquatic species.⁴⁸ The areas nearby maneuver a grassland environment thus creating a safe haven for grassland birds. The area has become a major attraction point for visitors, bird lovers, and also a major study ground for ornithologists.⁴⁹

The Dibru-Saikhowa Biosphere Reserve consisting of the Dibru-Saikhowa National Park and Maguri Motapung Wetland (Beel) is considered a reserved forest situated around 900 metres away from the oil well number 5 where the blowout occurred. Moreover, 25 such oil wells are present within the proximity of the reserved forest of the national park. OIL acquired approval on the use of reserved land for non-forest purpose clearance under section 2(i) of the Forest (Conservation) Act, 1980 from MoEFCC without a public hearing because the public sector had stressed on national importance. But a public hearing is a very crucial and essential component before the commencement of such projects.⁵⁰ The Apex court had also stated in the case in *Lafarge Umiam Mining Pvt. Ltd. v. Union of India*⁵¹ that public hearing or consultation is a mandatory requirement in the process of the environmental clearance process and also if any person is aggrieved by any aspect of any project, then the person is free to register and seek redressal of his or her grievances.⁵² Further, within the protected area of the park, there are subsurface Extended Reach Drilling (ERD) oil wells as it is evident from the Wildlife Report on Justification for the drilling project, OIL submitted which is in contradiction to section 2 of the Act of 1980. OIL allegedly commenced drilling projects in the area without approval or clearance from the Expert Appraisal Committee (EAC) under MoEFCC. The commencement of the drilling project was a huge concern for the local residents of

⁴⁷ Correspondent, *Maguri beel in Assam faces endgame after Baghjan blast*, INSIDENE (12 Jun, 2020) available at: <https://www.insidene.com/maguri-beel-in-assam-faces-endgame-after-baghjan-blast/>.

⁴⁸ *Id.*

⁴⁹ *Supra* note 38.

⁵⁰ Durba Ghosh, *Assam gas fire to have long-term impact on biodiversity hotspot*, OUTLOOK (12 Jun., 2020) available at: <https://www.outlookindia.com/newscroll/assam-gas-fire-to-have-longterm-impact-on-biodiversity-hotspot/1863987>

⁵¹ *Supra* note 17.

⁵² *Lafarge Umiam Mining Pvt. Ltd. v. Union of India*, (2011) 7 SCC 338.

Baghjan for which on the eve of World Environment Day a protest was carried out by the residents.

The blowout has led to a huge loss in the surrounding biodiversity in the national park. Events leading to the blowout were in complete contravention of the guidelines of the apex court, that all the necessary mitigation measures should be in place in case of any oil spillage inside the park area such as BOP and necessary valves in the production installations located outside the park area. In the case of *T. N. Godavarman Thirumulpad v. Union of India & Ors.*,⁵³ pertaining to oil spillage, strict adherence to Standard Operating Procedure (SOP) approved by the authority was mandated by the Court. This, however, does not seem to be the modus operandi in the present spillage.

The purpose of The Forest Conservation Act, 1980 has been described articulately in another judgement, *T. N. Godavarman Thirumulpad v. Union of India*.⁵⁴ The Court observed that the object of the Act was to check deforestation which leads to ecological imbalance and several provisions have been made on the issue to ensure the conservation of forests and its related matters. This principle applies to every forest irrespective of the nature of ownership or classification. The court further added and described what all are included in 'forest' and 'forest land' – all statutorily recognized forests, designated as reserved, protected, or otherwise except in section 2(i) of the Act and any area recorded as forest in the Government record irrespective of the nature of ownership.

The depletion of the reserve is an act of negligence, resulting in a huge loss of luxuriant forest reserve cover as mentioned in paragraph 4.4.1 of the National Forest Policy. The gas leak was a result of overlooking the the preservation and conservation of the biosphere of the affected area which caused negative impact of gas condensate on the flora and fauna and this is contrary to paragraph 2.1 of the Policy. Poor compliance with paragraph 3.3 of the Policy can be seen as the location of the national park had been ignored from where the seven well had been constructed and most importantly the presence of Extended Reach Drilling oil wells in the sub-surface of the protected area.⁵⁵ Instead of cultivating the forest for a ready resource for oil drilling more emphasis must have been made upon the Protected area and its surrounding biosphere which is also under paragraph 4.4.1 of the Policy. Therefore, it is clear that OIL had violated provisions of the Forest Conservation Act 1980 and didn't comply with the rules and regulations under the National Forest Policy.

⁵³ *T. N. Godavarman Thirumulpad v. Union of India & Ors.*, I.A. No.3934 in W. P. (C) No.202/1995.

⁵⁴ *T. N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267.

⁵⁵ *Supra* note 25.

Breach of Air and Water Laws

The mishap that took place on 9th June led to pollution and also violated the applicable water and air laws. The leak started on May 27 which led to natural gas and burning of this gas released varieties of air pollutants. section 2(a) of the Air (Prevention and Control of Pollution), 1981, states that an 'air pollutant' is a solid, liquid or gaseous substance and it may be or tend to be injurious to human beings and other living creatures or property or environment.⁵⁶ The gas which started releasing on 27th May was a mixture of propane, methane, propylene, and other gases which flew with the wind as per Y. Suryanarayana, the Chairman of the Assam Pollution Control Board.⁵⁷ He went on to add that the condensate is mostly falling on bamboo, tea gardens, banana trees, and betel nut trees. Even though the well lies outside ESZ but still the wind carries the condensate into the ESZ and the National Park as well.⁵⁸ As the act mentions the substances which need to be present to consider the leaking gas dangerous one, the substance present fall within the ambit of the definition of 'air pollutant' which if inhaled could cause asphyxiation. Also, the media channels reported that since the day of blowout the people present in the vicinity of the site had reported difficulty in breathing. The smoke of the incident site could be seen from a distance of about 30 km.

The news reports after the blowout established that the contaminants polluted the nearby Brahmaputra river and riverine tracts all along through Majuli and Dhubri and caused a threat to life for the aquatic and wildlife of the nearby area. This situation also falls under the definition of 'pollution' as mentioned in section 2 (e) of the Water (Prevention and Control of Pollution) Act, 1974. Many endangered Gangetic river Dolphin died and those reports and photographs of the dolphins along with a variety of dead fish went viral in the social media platform to which many environmental enthusiasts raised concerned about the pollutants being dissipated. The apex court in the famous *M. C. Mehta v. Union of India*, popularly known as the Oleum Gas Leakage Case,⁵⁹ gave a ruling on the principle of absolute liability which made the entity liable because inhalation of oleum gas by citizens caused death and ailment to the persons.

Further, in the case of *Union Carbide Corp. v. Union of India*,⁶⁰ the Apex court said that *the emerging postulates of tortuous liability whose principal focus is the social limits on*

⁵⁶ Frederica Perera, *Pollution from Fossil-Fuel Combustion is the Leading Environmental Threat to Global Pediatric Health and Equity: Solutions Exist*, 15(1), INT'L J. OF ENV'L RES. AND PUBLIC HEALTH (2017).

⁵⁷ Tora Agarwala, *Assam gas leak: why it's tough to plug, and what threat it poses to the area*, THE INDIAN EXPRESS (08 Jun., 2020) available at: <https://indianexpress.com/article/explained/assam-gas-leak-why-its-tough-to-plug-and-what-threat-it-poses-to-area-6447810/>.

⁵⁸ *Id.*

⁵⁹ *M. C. Mehta v. Union of India*, 1987 SCR (1) 819.

⁶⁰ *Union Carbide Corporation v. Union of India*, AIR 1990 SC 273.

economic adventurism is perhaps ignored in the Mehta principle. In a civilized society, certain things cannot be allowed to be done by the people, even if they are compensated for their resulting losses. Further the court observed in the case of *M.C. Mehta v. Kamal Nath and Ors.*⁶¹ – Pollution is a tort by nature which is committed by the community as a whole and is a civil wrong. Any person guilty of committing any kind of pollution needs to pay compensation to restore the damages caused to the environment and ecology and to the people who had suffered from the pollution caused’ the apex court said the mentioned the above lines in its judgment in the case of

The NGT in *Samir Mehta v. Union of India and Ors.*,⁶² ordered the polluters to pay compensation of 100 crores and also held that negligence could be attributed without the necessity for the element of *mens rea*. The NGT also in the case of *Save Mon Region Federation and Ors. v. Union of India and Ors.*⁶³ suspended the Environmental Clearance granted to the Project and asked the EAC to make a fresh appraisal of the proposal for Environmental Clearance grant. In *Shailash Singh v. State of Haryana and Ors.*⁶⁴ the NGT ruled that with regard to the aspect of human beings and at the cost of “air and water quality” no industrial development must be allowed.

In light of the above judgments, the Apex court as well as the NGT have penalized entities for grievous offences committed against water bodies and air quality causing degradation of human and animal life. And the incident in Baghjan has caused significant damage to the water bodies and its aquatic habitat, human life and its future livelihood and air quality.

Public Liability Insurance Act, 1991 and OIL’s Liability

OIL did not take requisite steps to prevent the spillage of hazardous wastes into the water bodies in the surrounding areas through selected drains and treatment facilities following which water bodies in the area have now been contaminated. The corporate was also required to adopt measures to mitigate the chances of oil spillage and fire hazards, none of which were adopted in the case of Baghjan. Owing to the circumstances that led to the unfortunate event, OIL is further liable under the Public Liability Insurance Act, 1991.⁶⁵ The Act imposes a liability on the owner of an industry dealing with hazardous substances to provide relief measures on a no-fault basis in cases of any death, injury to a person, or damage to property.⁶⁶ It has been clearly established in this case that the wrongful act, neglect and default

⁶¹ *M.C. Mehta v. Kamal Nath and Ors.*, AIR 2002 SC 1515.

⁶² *Samir Mehta v. Union of India and Ors.*, O.A. No. 24 of 2011.

⁶³ *Save Mon Region Federation and Anr. v. Union of India and Ors.*, M.A. No. 104 of 2012.

⁶⁴ *Shailash Singh v. State of Haryana and Ors.*, O.A. No. 639/2018.

⁶⁵ Act No.6 of 1991.

⁶⁶ Ayush Verma, *Overview of Public Liability Insurance Act, 1991*, iPLEADERS (03 Jul., 2020) available at: <https://blog.ipleaders.in/overview-public-liability-insurance-act/>.

led to the death and injury; and owing to which the owner of the industry must subscribe to an insurance policy under the Act which will insure the owner against such liability. section 7A of the Act, empowers the Union Government to establish Environment Relief Fund, towards the utility of paying relief under an award made by the collector under section 7 of this Act. The Act also deals with the powers to call for information, entry, inspection, search and seizure. The owner of the hazardous installation becomes obligated to submit to a person authorized by the Union Government any such information the inspector fairly needs for the purpose of ascertaining, any requirements, rule or directions made under this Act.⁶⁷

Acts of Violation of the Biodiversity Laws

The Baghjan mishap caused a huge loss to the rich biodiversity of the Dibru-Saikhowa National Park, and also endangered the lives of the villagers who are, now, on the verge of losing their houses and cattle. The Constitution of India enshrined in article 48(A) and 51A (g), the concept of conservation of biodiversity. Therefore, apart from the fact of legal violations, there is also a duty upon various entities to ensure that the Constitutional duty is complied with. However, the blowout at Baghjan followed by the damage to the extensive flora and fauna thereof is conjointly a violation of the Constitutional obligations too.

Violation of Convention on Biological Diversity

With the very objective of conservation of biodiversity and its sustainable use, the Convention of Biological Diversity, 1992⁶⁸ was adopted. article 7(c) of the Convention provides for identification of process or activities which may cause or have a harmful impact on the conservation and sustainable use of biological diversity⁶⁹ and in this regard to mitigate the negative effects, the overall usage is monitored through sampling and other techniques. Article 8(d) confers the obligation upon the states to promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings.

Being a contracting party to the Convention, the Government of India is bound to implement the provisions of the Convention. But the powers that be have failed to implement this objective as well as article 7(c) and 8 (d) of Convention on Biological Diversity because the Dibru-Saikhowa National park is rich in flora and fauna with 28 tree species, 26 species of shrubs, a total of 36 species of mammals, 11 species of turtles, 9 species of lizard etc. This is coupled with the fact that the regulation of oilfields being a union list subject and the protection of the flora and fauna being a concurrent list subject, the Union and State Government in this regard has failed to

⁶⁷ *Id.*

⁶⁸ 1760 UNTS 79.

⁶⁹ *Id.*

comply with the articles as per the Convention. The authorities failed to prevent the drilling activity in the immediate vicinity of the National Park.⁷⁰ Further, there is a violation of article 14 sub-section (1) Clause (a) and (b) of the convention which says that state is obliged to introduce appropriate procedures requiring environmental impact assessment of the proposed projects where chances of adverse effect on the biological diversity of the area is possible. Clause (b) lays emphasis on appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on Biological Diversity are duly taken into account.⁷¹

The oil from the well leaked into the nearby areas which have killed many aquatic species ranging from Gangetic dolphins to various bird species.⁷² It can be seen that the authorities and the public sector undertaking (OIL) in Tinsukia district didn't take the accurate measure and methods to ensure the protection of the species which has led to the death of many aquatic species and is itself a clear violation of the Convention. The concerned authorities didn't have an appropriate impact assessment of the drilling, nor appropriate arrangements have been made by OIL before drilling in the site thus violating the above mentioned articles from the convention and severely affecting the biodiversity of the place.

Violation of Ramsar Convention on Wetlands, 1971

The Ramsar Convention on Wetlands 1971 was introduced for the conservation of wetlands after considering their ecological significance to support flora and fauna. Maguri-Motapung (Maguri Beel), an important wetland habitat for local birds and a nesting site for migratory birds lies in the immediate vicinity to the drilling site. After the blowout, dead insects and frogs, eggs with nests on the grassland have been reported.⁷³ There lies an obligation for the conservation of wetlands upon the state according to the convention. Despite being a party to the Convention, it is clear that MoEFCC has failed to comply with the international standards of conserving the wetland and to protect it from any adverse effects because they gave EC to OIL for drilling in the ESZ.

Violation of The Convention on the Conservation of Migratory Species of Wild Animals, 1979

In addition to the immediately preceding importance, the Dibru-Saikhowa National Park is one of the crucial biodiversity spots in the world where a significant number

⁷⁰ Supra note 41.

⁷¹ *Id.*

⁷² Supra note 41.

⁷³ Priya Ranganathan, *Near the Baghjan Blowout, Assam's Critical Wetland Habitat Is Burning*, THE WIRE (11 Jun., 2020) available at: <https://science.thewire.in/uncategorised/baghjan-oil-blowout-maguri-motapung-beel-wetlands/>.

of migratory birds and other species travel annually. The wildlife of the region in their innumerable forms is irreplaceable. The state is and must be the protector of migratory species of birds and wildlife that live within or pass through their national jurisdictional boundaries. The Convention on the Conservation of Migratory Species of Wild Animals was brought up for protecting the migratory species of wildlife. article II established that the parties must acknowledge the importance of migratory species being conserved and agreeing to take action in this when required to conserve the species and their habitat and adds that the parties must acknowledge the need to take action to avoid migratory species becoming endangered.⁷⁴ As a party to the Convention, the grant of EC by MoEFCC to OIL for the drilling sites in Baghjan instead of the site being in the close vicinity of the National Park is a clear violation of the aforementioned article of the convention. Moreover, the blowout on 9th June had posed a great threat to the species in the National Park and can lead to the extinction of migratory species.

Violation of Biological Diversity Act 2002

The Biological Diversity Act 2002,⁷⁵ provides a mechanism to conserve ecological biodiversity. The Act created two tier structure of Biodiversity Boards for the protection and regulation of biodiversity, the first of which is the National Biodiversity Board whose powers and functions are enshrined in section 18 of the Act and second is the State Biodiversity Boards; section 23 of the Act specifies the functions of the State Boards. The functions of these two boards are to advise the respective governments on matters related to the conservation of biodiversity and sustainable use of its components. The concerned authorities had failed in regulating the well in Baghjan which have caused a threat to the diversity of the area. And instead of the Central government having the power to issue directives to the concerned State Government to take immediate measures, if it has reason to believe that the area rich in biological diversity is at stake as per section 36 of the Act, it ignored the threat to diversity while granting EC to OIL. The judiciary is very much concerned regarding the ecological balance and the Supreme Court and High courts have passed numerous judgments for protecting the biodiversity. One of which is the famous *R.L. & E. Kendra, Dehradun v. State of U.P.*⁷⁶ popularly known as the Doon Valley Case, the first-ever case which involved issues relating to the environmental and ecological balance.

Another important case is *Tarun Bharat Sangh v. Union of India*.⁷⁷ Though professing to protect the biodiversity through notification and declarations, the Rajasthan

⁷⁴ Lyle Glowka, *Complementarities between the Convention on Migratory Species and the Convention on Biological Diversity*, 3(3) J. OF INT'L WILDLIFE L. AND POL'Y 205 (2000).

⁷⁵ Act No. 18 of 2003.

⁷⁶ *R.L. & E. Kendra, Dehradun v. State of U.P.*, A.I.R. 1985 S.C. 652.

⁷⁷ *Tarun Bharat Sangh v. Union of India*, 1993 SCC Supl. (3) 115.

government was permitting the degradation of the biodiversity by authorizing the place declared as “reserve forest” for mining operation. The Supreme Court in its judgment clearly announced no mining operation of whatever nature shall be carried on within the protected area.⁷⁸

III

Constitutional Provisions and Obligations

Under article 142(1) of the Indian Constitution, the Supreme Court of India is vested with powers to pass any decree, or make any order as deemed necessary for doing complete justice in any cause or matter pending before it.⁷⁹ However, in the exercise of its jurisdiction, the matter must first be brought up before the Court. In the case of *M.C Mehta v. Kamal Nath*,⁸⁰ the Court awarded damages against the respondent under the ‘Polluter Pays Principle’. It was ruled that article 142 cannot be pressed into aid in the situation to impose fine upon the polluter if it amounts to a contravention of specific statutory provisions. The polluter pays principle was interpreted by the Supreme Court in the case of *M.C Mehta v. Union of India*.⁸¹ The Supreme Court said that the absolute liability for causing of harm to the environment extends not only the matter of compensating the victims of pollution but also bearing the cost to restore the degradation of the environment due to pollution. Improving the damaged environment is a part of the process of sustainable development and the polluter is liable to pay the cost to the individual sufferers as well as the cost to reverse the damaged ecology.

The term personal liberty in article 21 has also been given a much wider interpretation in the broadest sense. As a compendious term, it includes the variety of rights of a person which go on to make up the personal liberty of a man.⁸² Personal liberty must also accommodate the larger public interest, which is the cause in the Baghjan gas blowout case as it is a clear infringement of a person’s right to life and personal liberty to live a quality life in a sustainable environment. There has been clear neglect of the minimum conditions which exist for a human to live a life of dignity, and these are the protection of health, of men and women and children in tender age, just and humane conditions of work. The right to life does not just mean a mere animal existence but encompasses graces of human dignity, culture and civilization.

⁷⁸ M.P Jain, INDIAN CONSTITUTIONAL LAW 1168-1177 (2016).

⁷⁹ *Id.*

⁸⁰ *M.C Mehta v. Kamal Nath*, (1997)1 SCC 388.

⁸¹ *M.C Mehta v. Union of India*, AIR 1997 SC at 761.

⁸² *Supra* note 65.

Occupational hazards remain the most appalling human tragedy of the modern industry. The Supreme Court in the case of *CERC v. Union of India*⁸³ held that 'right to health and providing with medical aid to protect the health of a worker while in service or post-retirement is a fundamental right under article 21 of the Constitution; to be read with the Fundamental Duties. The Court would directly give out appropriate directions to the employer, be it State, or its undertaking or private employer to make right to life meaningful, to prevent pollution of workplace, protection of the environment, health of the workforce and ensure their safety and well-being.'

IV

Welfare v. Sustainable Development

Apart from several personal rights that the Supreme Court has spelt out in the interpretation of article 21, the Court has also been committed to contributing to the welfare of the people and improving the environment.⁸⁴ It enlisted two salutary principles to govern the environment, the principle of sustainable development and the precautionary principle. In the Convention on Biological Diversity, it was held that in the absence of compelling reasons, the Government should keep in mind the international obligations while exercising the powers under Forest (Conservation) Act.⁸⁵ Although a number of statutes exist to protect the environment against pollution and health hazards, the administrative machinery has not been quite successful in its cause. The Supreme Court has time and again performed yeoman service by taking cognizance of cases and directed against various machineries of the administration to carry out their obligation to protecting the environment. The Court has depended on the Directive Principles in article 47 and article 48 and also the fundamental duty contained in article 51a(g) of the Indian Constitution. The right to a healthy environment is now an internationally recognized obligation. The Basel Convention effectuates the Fundamental Rights guaranteed under article 21 for the right to information and community participation to protect the environment and human health.⁸⁶

Any disturbance of the elements of basic environment, namely air, water, soil which are within the purview of the interpretation of 'life' under article 21, would be hazardous within the meaning of the same interpretation. In *Subhash Kumar v.*

⁸³ *Consumer Education and Research v. Union of India*, 1995 AIR 922.

⁸⁴ *Supra* note 65.

⁸⁵ *K.M Chinnappa, T.N Godavarman v. Union of India and Ors.*, AIR 2003 SC 724.

⁸⁶ *Collector of Central Excise v. M/S Matador Foam and Ors.*, 2003 9 SCALE 303.

Bihar,⁸⁷ the Supreme Court held that enjoyment of pollution-free environment is included in the right to life under article 21. Therefore, the Government is constitutionally obligated to safeguard the environment and also take requisite measures for the promotion, protection and improvement of both man-made and natural environment. If anything endangers or impairs the quality of life in derogation of laws, a person/s or a group can take recourse in article 32 and article 226 for removal of pollution which otherwise is detrimental to human life.⁸⁸

Imposed by article 48A of the Constitution, the state has an obligation to carry out the task of protection and improvement of the environment and safeguard the forests and wildlife of the country. Article 51A(g) imposes a fundamental duty on every citizen to protect and improve the natural environment and show compassion towards living creatures. The Supreme Court stated that whenever a problem on ecology is brought before the Court, it is bound to keep in mind article 48a and article 51a(g) and thus, cannot leave the matter entirely to the whims of the Government.⁸⁹ In *M.C Mehta v. Union of India*⁹⁰, the Court held that articles 39(e), article 47 and article 48A collectively cast a duty on the state to protect the health of the people, improve public health, defend and preserve the environment. If the Administration does not show adequate concerns, the Supreme Court should take up active interest in this area. The Court must ensure that a fine balance between preservation and protection, address and reconcile between the imperatives of the same. Affirmative action must be carried out by mandating the state to take action for the purpose.⁹¹

V

Conclusion

It is clear that the drilling site of OIL is a product of lack of attention, low maintenance, negligence, ignorance, industrial greed, and most likely poor assessment of the environmental impact. The uncontrollable gas leak on 27th May, 2020 followed by the blowout of 9th of June 2020 has caused huge negative impact not only on the rich biodiversity of the Dibru-Saikhowa National Park but also caused a threat of lives of the local people who are at the verge of losing their house, property and cattle. The company doesn't seem to have complied with all the

⁸⁷ *Subhash Kumar v. Bihar*, AIR 1991 SC (420).

⁸⁸ *Supra* note 65.

⁸⁹ *Supra* note 67.

⁹⁰ *M.C Mehta v. Union of India*, JT 2002(3) SC 527.

⁹¹ *Rural Litigation and Entitlement Kendra Dehradun and Ors. v. State of Uttar Pradesh and Ors.*, 1985 AIR 652.

environmental protection measures and safeguards proposed in the documents submitted to the Ministry. The concerned authorities should look into, whether the company has undertaken all relevant measures for improving the socio-economic conditions of the surrounding area. The Public sector undertaking must compensate all losses suffered by the employee on site, nearby local people who have been shifted to the relief camps, and depletion of the surrounding biodiversity under the Tinsukia Wildlife Division, Tinsukia District. An independent inquiry on this case is highly recommended because questions have been raised on the approval of the drilling project site given by the ministry even after a national park being close to the site area. The authority needs to take appropriate actions that can be set as a precedent for such future cases.

The people of the nearby areas have been raising their voice against the drilling project for a very long time but it fell to the deaf ears of the authorities. And now after such a great loss have been caused by OIL, ardent actions must be taken in order to safeguard the interest of the people as well as their rights. OIL is equally accountable for their failure to bring a comprehensive mechanism in order to prevent such mishaps and causing great harm to the whole region. With a growing chorus for the need of more stringent rules to regulate the affairs of public sector undertakings in India, the Government must thoroughly investigate the matter and punish those found responsible so that no such incident ails the country and its biodiversity in the future.