CONSTITUTIONAL OBLIGATIONS OF THE STATE IN PROTECTING WATER BODIES IN INDIA: A CRITICAL ANALYSIS OF ENVIRONMENTAL JURISPRUDENCE

Sathishkumar R[1], LL.M., (Ph.D.).

Tamizhkavi B V[2], LL.M., (Ph.D.).

ABSTRACT

The Indian State bears an affirmative, enforceable constitutional obligation to protect, preserve, and restore rivers, wetlands, lakes, and aquifers through the judicial synthesis of fundamental rights under Articles 21 and 14, environmental stewardship duties under Articles 48A and 51A(g), and the Public Trust Doctrine. Rather than treating aquatic ecosystems as sovereign assets open to unrestricted alienation, Indian environmental jurisprudence casts the State as a fiduciary custodian bound to maintain ecological balance, enforce the Precautionary and Polluter Pays principles, and guard against discriminatory resource deprivation. Judicial developments through late 2026—most notably M.K. Ranjitsinh v. Union of India (2024) linking climate-induced water scarcity to constitutional equality, Delhi Pollution Control Committee v. Lodhi Property Co. Ltd. (2025) affirming administrative restitutionary and ex-ante preventive powers of Pollution Control Boards, the Vanashakti trilogy (2025–2026) recalibrating prior environmental appraisal under "eco-centric proportionality", and the Supreme Court's 12 October 2026 supervisory directions in Anand Arya v. Union of India extending scientific ground-truthing to all non-notified water bodies and 5,55,557 small wetlands—reflect a substantial doctrinal expansion of State hydrological responsibility.

Yet a critical appraisal reveals a persistent chasm between constitutional doctrine and hydrological governance. Policy and legal commentators contend that statutory restructuring under the Water (Prevention and Control of Pollution) Amendment Act, 2024, centralizes consent authority and weakens deterrence through decriminalisation, while the Wetlands (Conservation and Management) Rules, 2017, narrowed functional protections and omitted explicit National Green Tribunal (NGT) appeal mechanisms. Empirical data from Central Pollution Control Board (CPCB) monitoring through December 2025, Comptroller and Auditor General

[1] Assistant Professor of Law, Saraswathy Law College, Tindivanam
[2] Assistant Professor of Law, SKP Law College, Tivannamalai.

(CAG) performance audits, Parliamentary Standing Committee reports through August 2025, and Supreme Court filings through October 2026 document 296 polluted river stretches driven primarily by untreated or partially treated sewage, industrial effluents, and non-point pollution, groundwater extraction surpassing recharge in four States and Union Territories, chronic underutilization of remediation funds, and nearly a decade of uneven wetland demarcation. The reviewed public record also reveals three evidentiary gaps that constrain comprehensive assessment: no consolidated register tracks which additional States have adopted the 2024 Water Amendment Act under Article 252 beyond Himachal Pradesh, Rajasthan, and the Union Territories; no final appellate dispositions appear in the examined record for earlier river-personhood or local-body groundwater disputes such as Mohd. Salim (2017) and Perumatty Grama Panchayat (2005); and no unified national audit compares environmental compensation assessed against amounts actually collected and spent on ecological restoration.

Keywords: Constitutional Environmentalism; Article 21; Public Trust Doctrine; Water Amendment Act 2024; Eco-Centric Proportionality; Wetlands Conservation; Restitutionary Powers.

1. Introduction: The Constitutional Crisis of India's Hydrological Commons

India's freshwater systems face severe ecological stress from untreated or partially treated municipal sewage, industrial trade effluents, diffuse non-point pollution, floodplain encroachment, wetland conversion, and unsustainable aquifer extraction. According to CAG Report No. 9 of 2021, groundwater accounts for nearly 85% of rural water supply, 62% of irrigation requirements, and 45% of urban water supply, placing intense pressure on natural recharge cycles. Simultaneously, surface rivers and urban lakes continue to suffer organic loading and toxic discharges despite decades of statutory regulation. Within Indian public law, such ecological deterioration is not merely a failure of administrative engineering; it implicates enforceable constitutional obligations owed by the State to present and future citizens.

This legal research article critically evaluates the scope, doctrinal evolution, and practical enforceability of the State's constitutional duties toward water bodies in India as of late 2026, drawing on statutes, Supreme Court decisions up to October 2026, and official monitoring and audit records published through 2025–2026. Combining doctrinal analysis with institutional audit evaluation, the paper examines how the Supreme Court synthesized fundamental rights and Directive Principles into positive hydrological duties, assesses the federal and enforcement

implications of the Water (Prevention and Control of Pollution) Amendment Act, 2024, interrogates the 2025–2026 recalibrations in DPCC v. Lodhi Property and the Vanashakti trilogy, and tests judicial rhetoric against empirical evidence from the CPCB, CAG, Parliamentary committees, and ongoing wetland demarcation proceedings.

2. Constitutional Foundations: Articles 21, 14, 48A, 51A(g), and the Public Trust Doctrine

2.1 Interpretive Synthesis of Fundamental Rights and Environmental Duties

The constitutional text originally situated environmental stewardship outside Part III's enforceable rights. Added to Part IV (Directive Principles of State Policy) and Part IVA (Fundamental Duties), Article 48A directs the State to protect and improve the environment, while Article 51A(g) enjoins every citizen to protect and improve the natural environment, explicitly naming forests, lakes, rivers, and wildlife. Through purposive constitutional interpretation, the Supreme Court bridged the divide between non-justiciable directives and enforceable fundamental guarantees. In Virender Gaur v. State of Haryana, (1995) 2 SCC 577, the Court grounded the right to a clean environment in Article 21 and affirmed that the State bears a duty "to shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment". Expanding that synthesis in M.C. Mehta v. Kamal Nath, (2000) 6 SCC 213, the Court held that Articles 48A and 51A(g) must be read in light of Article 21, establishing that "any disturbance of the basic environment elements, namely air, water and soil, which are necessary for 'life', would be hazardous to 'life' within the meaning of Article 21 of the Constitution".

Alongside this rights-based foundation, the Supreme Court embedded the Polluter Pays and Precautionary principles into domestic statutory and constitutional adjudication. In Indian Council for Enviro-Legal Action v. Union of India (1996) and Vellore Citizens' Welfare Forum v. Union of India (1996), the Court established that responsibility for repairing ecological damage rests with the offending industry and confirmed that remediation—covering both compensation to individual victims and reversal of environmental degradation—forms an integral component of sustainable development. Clarifying the civil nature of environmental liability in Kamal Nath, the Court characterized pollution as a tort committed against the community as a whole, while Research Foundation for Science (18) v. Union of India, (2005) 13 SCC 186, underscored that Polluter Pays covers full environmental costs beyond immediately tangible harm and does not permit a polluter to "pollute and pay for it". Parallel

environmental jurisprudence anchored the Precautionary Principle as requiring environmental appraisal before potentially damaging construction or industrial activity begins.

2.2 The Public Trust Doctrine, Custodial Ownership, and Decentralized Stewardship

A foundational pillar of State responsibility over aquatic ecosystems is the Public Trust Doctrine, which Indian legal scholarship traces across natural law, constitutional mandates, and statutory regimes. Under public trust principles, surface water bodies and ecological commons are held by the State in fiduciary stewardship for public use and ecological continuity rather than as alienable commercial property. Policy commentary notes that this custodial obligation informed the Supreme Court's mandate in Jagpal Singh v. State of Punjab (2011) concerning the restoration of encroached wetlands nationwide.

The Supreme Court forcefully reaffirmed non-negotiable public custodianship on 12 October 2026 in Anand Arya v. Union of India (W.P.(C) No. 304/2018, heard alongside M.K. Balakrishnan v. Union of India, W.P.(C) No. 230/2001). Dismissing an intervener application (IA No. 103382/2025) that sought appointment of a valuer to assess dilapidated temple tanks (kunds) in Vrindavan and entrust their restoration to a national non-governmental organization—and citing an earlier 28 July 2026 order rejecting an ₹80-crore claim—a Bench of Justices Aravind Kumar and Vipul M. Pancholi reiterated that water bodies belong to State wetland authorities and public instrumentalities, refusing to cede custodial governance to private actors.

Indian courts have also explored alternative legal paradigms for water protection, including ecological personhood and local self-government oversight, though their long-term doctrinal traction remains incomplete in the reviewed records. On 20 March 2017, the ruling in Mohd. Salim v. State of Uttarakhand recognized legal status as a "living person/legal entity" for the Rivers Ganga and Yamuna. Earlier, in litigation involving Kerala's Perumatty Grama Panchayat, local governance claims over industrial beverage operations reached the Supreme Court, which issued notice to Coca-Cola on 6 May 2005. Because subsequent appellate dispositions and enforcement outcomes for Mohd. Salim and Perumatty Grama Panchayat are not established in the reviewed materials, these rulings stand primarily as illustrations of experimental water stewardship rather than settled nationwide precedent.

2.3 Climate Constitutionalism, Equality, and Hydrological Justice: M.K. Ranjitsinh (2024)

On 21 March 2024, a three-judge Bench led by Chief Justice D.Y. Chandrachud (with Justices J.B. Pardiwala and Manoj Misra) in M.K. Ranjitsinh & Ors. v. Union of India & Ors., 2024 INSC 280 (W.P.(C) No. 838 of 2019 with Civil Appeal No. 3570 of 2022), expanded Indian environmental constitutionalism by articulating a distinct fundamental right to be free from the adverse effects of climate change. Although the writ petition sought protection for the critically endangered Great Indian Bustard (estimated by the IUCN at 50–249 individuals globally, and reckoned by the Rajasthan Government at about 125 in 2013) against overhead power lines across roughly 99,000 sq. km. in Rajasthan and Gujarat, the Court's constitutional reasoning forged explicit links between climate disruption, water security, and equality.

Anchoring the new right jointly in Articles 21 and 14, the Bench explained that climatic instability undermines substantive equality because vulnerable populations bear disproportionate harm. The Court illustrated that constitutional nexus directly through hydrological deprivation, observing that "if climate change and environmental degradation lead to acute food and water shortages in a particular area, poorer communities will suffer more than richer ones. The right to equality would undoubtedly be impacted in each of these instances". Furthermore, when modifying its April 2021 blanket order on undergrounding transmission lines to accommodate India's 500 GW renewable energy target by 2030, the Court explicitly invoked groundwater conservation as a constitutional imperative: "Declining groundwater levels and decreasing annual rainfall underscore the importance of diversifying energy sources. Solar power, unlike coal, does not strain groundwater supplies". Building upon KIADB v. C. Kenchappa and Bombay Dyeing & Mfg. Co. Ltd. (3) v. Bombay Environmental Action Group, (2006) 3 SCC 434, the Bench also reaffirmed rising sea levels and global temperatures as actionable constitutional threats.

While hailed as a watershed moment, legal scholars highlight structural limitations in M.K. Ranjitsinh. Analysts note that the newly recognized right remains "under-operationalized," as the judgment neither defines concrete constitutional thresholds nor specifies correlative duties and remedial standards for climate-induced water distress, instead entrusting the conflict between species conservation and solar infrastructure to a court-appointed expert committee—a recurring judicial mechanism that blurs executive accountability. Subsequent scholarship

notes that the Supreme Court later disposed of the underlying M.K. Ranjitsinh proceeding in December 2025 alongside supervisory intervention in Ridhima Pandey v. Union of India, though detailed operational directives from that final disposal lie outside the primary judgment text examined here.

3. Cooperative Federalism and Statutory Reform: The Water (Prevention and Control of Pollution) Amendment Act, 2024

3.1 Article 252 Federalism and the 1974 Statutory Baseline

Under India's Seventh Schedule division of powers, water supplies and state-level water governance fall substantially within State legislative competence. Consequently, Parliament enacted the Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974) on 23 March 1974 pursuant to State legislative resolutions under Article 252(1) of the Constitution. The 1974 statute established the CPCB and State Pollution Control Boards (SPCBs) to prevent, control, and abate water pollution and to maintain or restore the "wholesomeness of water". Because Article 252 statutes bind only consenting or adopting States, statutory amendments depend on subsequent State legislative adoption.

3.2 Structural Realignments Under the 2024 Amendment Act

Introduced in the Rajya Sabha on 5 February 2024, passed by the Rajya Sabha on 6 February and the Lok Sabha on 8 February 2024, and granted Presidential assent on 15 February 2024, the Water (Prevention and Control of Pollution) Amendment Act, 2024 (Act No. 5 of 2024) substantially redesigned India's core water-pollution statute. Pursuant to Article 252(1) read with Article 252(2), the Amendment Act entered into force immediately only in Himachal Pradesh, Rajasthan, and the Union Territories, taking effect in other States solely upon the date of formal legislative adoption. As noted earlier, the reviewed legislative records do not establish a comprehensive tally of additional States that have adopted the 2024 Amendment, leaving national statutory enforcement potentially asymmetric.

Substantively, the 2024 Amendment alters institutional governance, industrial consent screening, and penal architecture across three dimensions. First, it centralizes regulatory authority over SPCB leadership and consent procedures. Amendments to Sections 4, 5, and 63 shift control over the qualifications, nomination procedures, and service conditions of SPCB

Chairpersons—previously nominated autonomously by State Governments—to rules framed by the Central Government. A newly inserted Section 27A empowers the Central Government to issue binding guidelines governing the grant, refusal, or cancellation of industrial consents by SPCBs, while a substituted proviso to Section 25 authorizes the Central Government, in consultation with the CPCB, to exempt specified categories of industrial plants from consent restrictions for new outlets and sewage or trade effluent discharges via Official Gazette notification.

Second, aiming to promote regulatory efficiency and what legislative summaries term "trust-based governance," the Amendment decriminalizes numerous contraventions while establishing an administrative penalty regime. Sections 45 and 47 of the 1974 Act are omitted, while Sections 41, 41A, and 42–44 are revised so that infractions—such as failing to furnish information under Section 20, breaching directions under Sections 32, 33, or 33A, or tampering with monitoring meters under Section 25 or 26—attract civil monetary penalties ranging from ₹10,000 to ₹15 lakh, alongside an additional ₹10,000 per day for continuing non-compliance. New Sections 45A through 45E establish Adjudicating Officers to conduct inquiries and impose penalties, route appeals to the NGT, and credit proceeds to the Environmental Protection Fund. As summarized in legal and compliance analyses, imprisonment is restricted primarily to non-compliance with Section 25/26 consent requirements and failure to pay adjudicated penalties, with continuing contravention beyond one year after conviction carrying two to seven years' imprisonment alongside a ₹50,000 per-day post-conviction penalty and fine.

Third, substituting Section 48, the Amendment establishes direct personal fiscal accountability within public administration: where any Department of the Central or State Government contravenes the Act, the Head of that Department becomes liable to pay a penalty equal to one month of basic salary unless the officer proves due diligence was exercised to prevent the breach.

3.3 Federalism and Deterrence Critique

Evaluated against the State's Article 21 and Article 48A duties, the 2024 Amendment Act generates sharp tension between ease of doing business and ecological deterrence. Proponents emphasize that aligning the Water Act with the Air (Prevention and Control of Pollution) Act, 1981, prevents disproportionate criminal prosecution for technical or procedural lapses,

reduces surveillance duplication, and introduces mandatory professional criteria for SPCB leadership. Furthermore, penalizing departmental heads directly under Section 48 targets municipal and state authorities whose untreated sewage remains a principal driver of river degradation.

Conversely, policy commentary published on IMPRI argues that the Amendment undermines cooperative federalism by centralizing SPCB governance and consent discretion in New Delhi, reducing State governments' statutory capacity to address localized hydrological threats. Critics cited in legislative and policy reviews further contend that relaxing statutory screening via Section 25 exemptions and substituting capped financial penalties (₹10,000–₹15 lakh) for criminal liability compromises regulatory transparency and weakens environmental deterrence—leading critics such as parliamentarian Anubhav Mohanty, quoted in IMPRI commentary, to characterize the measure as a "pay and pollute bill". Whether this statutory pivot comports with constitutional mandates depends heavily on how Pollution Control Boards and courts exercise independent remedial and preventive powers.

4. Judicial Recalibration: Administrative Restitution vs. Eco-Centric Proportionality (2025–2026)

4.1 Restitutionary and Ex-Ante Authority of Pollution Control Boards: DPCC v. Lodhi Property (2025)

A chronic weakness in statutory water enforcement had been the contested authority of Pollution Control Boards to demand immediate financial remediation or preventive security without awaiting slow criminal trials. Following 2006 show-cause notices by the Delhi Pollution Control Committee (DPCC) demanding post-facto consent and environmental damages or bank guarantees from commercial builders, Single Judge benches in Splendor Land base Ltd. v. DPCC (2010) and Bharti Realty Ltd.—affirmed by a Delhi High Court Division Bench in 2012—invalidated DPCC's monetary demands as unconstitutional penalties lacking statutory authority under Sections 33A and 31A.

On 4 August 2025, in Delhi Pollution Control Committee v. Lodhi Property Co. Ltd. Etc., 2025 INSC 923 : 2025 SCC OnLine SC 1601, a Supreme Court Bench of Justices P.S. Narasimha and Manoj Misra overturned the Delhi High Court's restrictive statutory reading and endorsed the NGT's reasoning in Swastik Ispat. Synthesizing Kamal Nath, ICELA, Vellore Citizens,

Research Foundation for Science, and Godavarman Thirumulpad, In Re—while confining Deepak Nitrite Ltd. v. State of Gujarat to its specific facts—the Court anchored administrative water governance in a clear doctrinal distinction between punishment and remediation.

While punitive fines and imprisonment require a fair trial before a competent criminal court (or statutory adjudicatory process) upon proof of guilt, the Court reaffirmed that pollution constitutes a civil wrong against the community. Directing an industry to pay fixed compensatory sums or furnish bank guarantees to repair ecological degradation or prevent imminent harm is therefore restitutionary and remedial, not penal, falling legitimately within the broad power to "issue any directions" under Section 33A of the Water Act and Section 31A of the Air Act. Crucially, the Bench declared that environmental regulators carry a "compelling duty to adopt and apply preventive measures irrespective of actual environmental damage," empowering Boards to act ex ante when harm is reasonably imminent, as well as ex post when norms are violated or damage occurs despite nominal compliance.

At the same time, Lodhi Property paired institutional empowerment with strict constitutional rule-of-law discipline. Justice Narasimha held that Boards may not levy arbitrary monetary demands through ad hoc notices; rather, restitutionary powers must be exercised through **subordinate legislation** establishing transparent damage-assessment criteria, natural justice hearings, and procedural certainty. Legal commentary highlights that these administrative restitutionary powers coexist alongside, and are not displaced by, the 2024 Water Act Amendments' Adjudicating Officer penalty regime. On the equities of the long-pending appeals, however, citing concurrent High Court findings and the prolonged passage of time since 2006, the Supreme Court refused to revive DPCC's original notices and directed refund of any collected sums within six weeks.

4.2 Prior Appraisal and the Vanashakti Trilogy (2025–2026)

If Lodhi Property fortified administrative water-protection tools, the Supreme Court's 2025–2026 Vanashakti decisions revealed acute constitutional tension over prior Environmental Clearance (EC)—a critical preventive barrier protecting catchments, wetlands, and urban aquifers from unappraised construction and industrial discharges.

In an initial ruling regarding the building and construction sector—Vanashakti v. Union of India, 2025 SCC On Line SC 1703 (August 2025)—a Bench led by Chief Justice B.R. Gavai

adjudicated challenges to a MoEFCC Notification dated 29 January 2025 and Office Memorandum dated 30 January 2025 modifying the EIA Notification, 2006. While upholding the clarified definition of "built-up area" across floors, basements, and service areas and affirming State Environmental Impact Assessment Authority (SEIAA) oversight by keeping General Conditions inapplicable to Entries 8(a) and 8(b), the Court struck down Note 1's exemption for industrial sheds, schools, colleges, and hostels up to 1,50,000 sq. m. (far above the standard 20,000 sq. m. threshold). Observing that large commercialized educational campuses generate genuine environmental impacts, the Court held that removing prior scrutiny without an alternative expert assessment mechanism was arbitrary and unsustainable.

Concurrently, a far deeper constitutional battle unfolded over MoEFCC's **14 March 2017 Notification** (creating a six-month regularisation window for pre-existing violators) and **7 July 2021 Office Memorandum** (establishing a continuing administrative mechanism for post-facto ECs, defended by the Union as implementing NGT directions in Tanaji B. Gambhire). Across fourteen months, three benches delivered sharply contrasting rulings:

In **Act I (Vanashakti-I, 2025 INSC 718 : 2025 SCC OnLine SC 1139, decided 16 May 2025)**, Justices Abhay S. Oka and Ujjal Bhuyan struck down both the 2017 Notification and the 2021 OM and restrained the Central Government from issuing any future ex post facto EC instruments. Relying on Common Cause v. Union of India and Alembic Pharmaceuticals Ltd. v. Rohit Prajapati, (2020) 17 SCC 157, the Bench held that retrospective clearance is "completely alien to environmental jurisprudence," violates Articles 14 and 21 by foreclosing mandatory public consultation, breaches prior executive assurances to the Court, and impermissibly converts the Polluter Pays Principle into a license to pollute.

In **Act II (Vanashakti-II / Review Order, CREDAI v. Vanashakti, 2025 INSC 1326 : 2025 SCC OnLine SC 2474, decided 18 November 2025)**, a three-judge Review Bench comprising Chief Justice B.R. Gavai and Justice K. Vinod Chandran (with Justice Bhuyan dissenting) recalled Vanashakti-I by a 2:1 majority and restored the writ petitions for fresh hearing. The majority declared Vanashakti-I per incuriam for overlooking co-equal Bench decisions (Electrosteel Steels Ltd., (2023) 6 SCC 615; Pahwa Plastics (P) Ltd.; and D. Swamy v. Karnataka SPCB, (2023) 20 SCC 469) that had permitted conditional continuation of projects without prior EC. Crucially, the majority weighed economic sunk costs, accepting Union submissions that Vanashakti-I threatened demolition of completed "national assets" valued at

over ₹20,000 crore, including airports and effluent treatment plants (ETPs). Justice Chandran's concurring opinion left the substantive validity of the two instruments open for re-hearing, while Justice Bhuyan's dissent condemned the recall as "a step in retrogression". Legal commentators in Supreme Court Observer and civil-society analyses sharply criticized Vanashakti-II for eroding judicial finality, bypassing Article 21 altogether, and ignoring hydrological risks—warning that sparing unappraised encroachments along urban lake banks directly heightens catastrophic flooding vulnerability.

In **Act III (Vanashakti-III, 2026 INSC 761 : 2026 SCC OnLine SC 1404, decided 29 July 2026)**, a reconstituted three-judge Bench (Chief Justice Surya Kant, Justices Joymalya Bagchi and Vipul M. Pancholi), in an opinion authored by Justice Bagchi, resolved the conflict through the doctrine of **"eco-centric proportionality"**. Reconciling the Court's precedents, Vanashakti-III reaffirmed that **prior EC remains the mandatory norm** under the Environment (Protection) Act, 1986, leaving projects commenced without clearance liable to status quo ante restoration, closure, demolition where necessary, environmental remediation, and cost recovery. Applying proportionality analysis, the Bench drew a bright constitutional line between the two impugned instruments: it **upheld the 14 March 2017 Notification** as valid delegated legislation under Section 3 of the EPA because it was a strictly time-bound, one-time measure confined to pre-14.03.2017 violators and conditioned on ecological damage assessment and remediation; conversely, it **quashed the 7 July 2021 Office Memorandum** under **Articles 14 and 21**, holding that an administrative instruction cannot supplant delegated legislation (EIA 2006) and that a perpetual, open-ended amnesty lacking any cut-off date or defined class fails proportionality and reasonableness scrutiny.

Significantly, Vanashakti-III advanced constitutional accountability within the State apparatus itself. Restrained from issuing future administrative post-facto clearance orders—and permitted to enact extraordinary violation-management schemes solely through narrowly tailored statutory notifications under Section 3—the Union was also put on notice regarding official complicity. Observing that when State bodies bypass clearance rules, "the preserver of the rule of law is seen violating the law," the Court directed that any future amnesty scheme carry disciplinary and personal liability consequences for responsible officials under **Section 15B of the EPA, 1986** (inserted via the Jan Vishwas (Amendment of Provisions) Act, 2023). Yet because the Bench left previously granted clearances undisturbed and allowed pending 2021 OM applications to be processed to conclusion, legal analysts caution that prospective

invalidation still insulated violators who took advantage of the unlawful memorandum before July 2026.

5. The Implementation Deficit: Wetlands Demarcation, River Pollution, and Groundwater Audits

5.1 Wetland Governance Under the 2017 Rules and the October 2026 Supreme Court Mandamus

Wetlands provide vital hydrological functions including flood buffering, natural water purification, biodiversity sustenance, and groundwater recharge. Under the earlier Wetlands (Conservation and Management) Rules, 2010, oversight rested with a centralized Central Wetlands Regulatory Authority (CWRA) with a statutory appeal mechanism to the NGT. However, policy reviews noted that not a single water body was notified under the 2010 framework beyond Ramsar sites and existing centrally recognized wetlands. Pursuant to a Supreme Court order dated 8 February 2017 in M.K. Balakrishnan & Ors. v. Union of India, the MoEFCC notified the Wetlands (Conservation and Management) Rules, 2017, on 26 September 2017.

While the 2017 Rules created decentralized State Wetland Authorities (SWAs), promoted the "wise use" principle, mandated digital inventories, and prohibited encroachment, industrial expansion, solid-waste dumping, and untreated effluent discharge, critics identified substantial structural flaws. Policy commentators argued that the 2017 Rules shifted wetland identification away from functional ecological criteria—such as hydrology, soil saturation, and groundwater recharge—toward origin-based exclusions (such as river channels and human-made wetlands) and State discretion, diverging from ISRO's National Wetland Inventory and Assessment (NWIA) standards. Commentators and a 2020 Rajya Sabha parliamentary query (Unstarred Question No. 855, answered 19 September 2020) raised concerns that these definitional gaps risked excluding up to 9.7 million hectares—or approximately 65%—of mapped wetland area nationwide. Analysts further noted the omission of the 2010 Rules' explicit NGT appeal clause, the absence of fixed timelines for clearing dumped waste, and the failure to incorporate Jagpal Singh's restoration mandate.

Nearly nine years of lagging implementation culminated in the Supreme Court's supervisory order of **12 October 2026** in Anand Arya v. Union of India (W.P.(C) No. 304/2018) with M.K.

Balakrishnan (W.P.(C) No. 230/2001) and W.P.(C) No. 302/2020. The Court's record revealed stark divergence across States in executing **Rule 7(1)(a)** ground-truthing and boundary demarcation. According to MoEFCC data as of 25 September 2026, Karnataka reported ground-truthing and boundary demarcation data for 14,355 out of 14,936 wetlands (96.1%), yet failed to supply supporting records detailing the methodology or confirming compliance with Rule 7(1)(a), prompting the Bench to order full procedural documentation within four weeks.

By contrast, Tamil Nadu presented a verifiable four-stage scientific model covering 28,898 waterbodies/shapefiles extracted from ISRO's Space Application Centre (NWIA 2011 and NWDCA 2021)—the largest wetland demarcation task in India. Under Stage 2 (GIS superimposition onto digitized village cadastral maps within a 300-meter envelope to correct spatial shifts), Tamil Nadu had authenticated 15,029 waterbodies across 26 of 38 districts, with 13,869 active across the remaining 12 districts. Under Stage 3 (revenue survey verification via a four-tier institutional hierarchy led by District Collector committees and joint field teams), 9,202 waterbodies were authenticated across 16 of 38 districts, with 19,696 active in 22 districts. Under Stage 4 (Differential GPS field surveying and physical demarcation), geotagged boundary stones/pillars logged with KML files rose from 290 on 18 September 2026 and 2,614 on 26 September 2026 to 3,113 pillars by October 2026.

Converting Tamil Nadu's protocol into a nationwide judicial mandate, the Supreme Court directed all States and Union Territories to complete systematic scientific ground-truthing and demarcation under Rule 7(1)(a) "on a war footing" within **four months**, and to file compliance affidavits within **four weeks**. Crucially, neutralizing the narrow scope of formal wetland notifications under the 2017 Rules, the Court mandated that ground-truthing explicitly include **"other water bodies"** beyond notified wetlands and required all States to specify protective measures for the approximately **5,55,557 small wetlands (< 2.25 hectares)** mapped in the national Wetland Atlas.

5.2 River Pollution, Groundwater Over-Extraction, and Audit Findings

Official monitoring and audit records reveal a similarly mixed picture across surface rivers and aquifers. Under the National Water Quality Monitoring Programme (NWMP), covering 4,736 stations nationwide (including 2,155 stations on 645 rivers as of August 2025), the CPCB's December 2025 report Polluted River Stretches for Restoration of Water Quality documented

a reduction in Polluted River Stretches (PRS) from 351 in 2018 to 311 in 2022 (across 279 rivers in 30 States/UTs) and **296 in 2025**—an aggregate 15.7% decrease over seven years. Over the same period, Critically Polluted River Stretches fell from 45 to 37 (a 17.8% decline), 149 stretches were delisted, and water quality improved in 71 stretches. Among 4,493 identified Grossly Polluting Industries (GPIs) as of December 2025, 860 had self-closed and 3,031 of 3,633 operational units (83.4%) complied with effluent standards, while 572 faced show-cause notices, 29 received closure directions, and 1 received a regulatory direction. Event-specific sanitation and twice-weekly CPCB monitoring at five stations during Maha Kumbh 2025 (12 January–20 February 2025) also reflected targeted operational oversight.

Nevertheless, severe localized impairment persists: 296 river stretches remained polluted as of 2025, with seven extreme stretches recording Biochemical Oxygen Demand (BOD) above 30 mg/l—four in Gujarat, two in Maharashtra, and one in Assam. Moreover, the examined government releases contain no consolidated national accounting comparing environmental compensation assessed by tribunals against sums actually recovered and applied to river remediation.

Independent CAG audits and Parliamentary Standing Committee reviews expose deeper structural dysfunctions explaining why pollution persists despite substantial public expenditure. Tracing back to CAG Report No. 21 of 2011 on pervasive organic river pollution, CAG Report No. 39 of 2017 (Performance Audit of Namami Gange) documented severe institutional bottlenecks: fund utilization during 2014–15 to 2016–17 stood at just 8% to 63% of revised estimates, leaving ₹2,134 crore unutilized with the National Mission for Clean Ganga (NMCG). Only 71 of 154 Detailed Project Reports (46.1%) were approved; 26 of 46 Sewage Treatment Plant (STP) and interception projects (worth ₹2,710 crore out of ₹5,111 crore) suffered delays due to land unavailability and slow contractor execution; STPs totaling 1,397 MLD awaited DPR approval past the September 2016 deadline; only half of ₹951 crore released for rural sanitation across five Ganga-basin States was utilized; the Ganga Knowledge Centre spent just ₹1.43 crore (3%) of ₹48.54 crore sanctioned by March 2017; River Conservation Zones remained unnotified in Uttar Pradesh, Bihar, Jharkhand, and West Bengal as of May 2017; and manpower vacancies ranged from 44%–65% in NMCG and 20%–89% in State Programme Management Groups. Subsequent reporting in Down To Earth (June 2026) indicates that a later CAG audit in Uttarakhand similarly flagged untreated sewage entering the Ganga despite substantial Namami Gange funding, though the underlying 2026 audit tables are not present in the publicly accessible summary reviewed here.

Comparable governance failures characterize the 1,376 km Yamuna basin and national floodplains. Civil-society analysis (SANDRP, March 2024) of a Parliamentary Committee report noted that Yamuna water in Delhi remains unfit for bathing, with 161.95 hectares of Delhi floodplain under encroachment, construction-debris dumping cases rising from 1 in 2018 to 610 in 2021, 22 drains discharging into the river in Delhi (led by the Najafgarh drain at ~23 cumecs), and only 540 of 1,957 main-stem GPIs (27.6%) connected via Online Continuous Effluent Monitoring Systems (OCEMS) by February 2024. While the Committee urged coordinated pollution abatement and OCEMS compliance, SANDRP analysts contended that without releasing adequate environmental flows—arguing for at least 50% of available water at Hathni Kund Barrage—engineering projects alone cannot restore river ecology. On 11 August 2025, the 18th Lok Sabha Standing Committee on Water Resources (7th Report) similarly flagged severe recurring floods and recommended halting unregulated floodplain construction in collaboration with States, even as the Union Ministry reiterated that flood management falls under State jurisdiction. Earlier commentary on the 2021 Parliamentary Standing Committee report also critiqued technocratic river-interlinking proposals for reducing rivers to "waterpipes" while neglecting wetlands and disproportionate impacts on women.

Groundwater governance reveals parallel enforcement deficits. CAG Report No. 9 of 2021 (tabled December 2021, covering 2013–18) reported an aggregate national groundwater extraction rate of 63%, with 13 States/UTs exceeding the national average and **four jurisdictions—Delhi, Haryana, Punjab, and Rajasthan—extracting more than 100% of annual recharge**. Testing by the Central Ground Water Board (CGWB) across 15,165 locations in 32 States (2015 data) identified chemical contamination above permissible limits at thousands of sites, including Nitrate (2,015 locations), Iron (1,389), Arsenic (697), Fluoride (637), and Salinity (587). Field inspections exposed widespread violations of industrial No Objection Certificate (NOC) conditions, such as missing water meters and illegal groundwater extraction in Andhra Pradesh. Meanwhile, actual scheme expenditure for 2012–19 reached ₹1,109.73 crore against a ₹2,349.48 crore budget estimate (47.2%), leaving aquifer mapping reports unshared with District Administrations in 33 of 201 targeted districts by November 2019.

6. Critical Synthesis: Structural Tensions in Environmental Constitutionalism

Cross-examining constitutional doctrine from 1995 through October 2026 alongside empirical audit performance exposes four interlocking structural tensions within Indian water governance. First is a persistent **asymmetry between doctrinal ambition and regulatory**

capacity. While the Supreme Court has elevated hydrological protection to encompass Article 14 climate equity, ex-ante Pollution Control Board compensation, and the demarcation of over half a million small wetlands, front-line implementing institutions remain understaffed and procedurally unequipped. Staff vacancies reaching 89% in State Ganga agencies, unshared aquifer maps across 33 districts, and nearly two decades during which SPCBs demanded environmental damages without enacting subordinate legislation demonstrate that constitutional mandates falter when administrative rule-making and technical staffing are neglected.

Second is a **fragmented and internally contradictory federalism**. Under the 2024 Water Act Amendments, Parliament moved toward centralizing SPCB chairperson qualifications, consent guidelines (Section 27A), and industrial exemptions (Section 25) within the Union executive, yet asymmetric adoption under Article 252 leaves national rules uneven. Conversely, the 2017 Wetlands Rules devolved identification to States while dropping central oversight and explicit NGT appeal routes, and on floodplains the Union Ministry continues to treat flood control as an exclusively State responsibility despite basin-wide impacts. Effective constitutional stewardship requires binding national ecological baselines matched with accountable, scientifically resourced State execution.

Third is the **dominance of civil engineering solutions over ecological hydrology**. Across river-rejuvenation and flood-mitigation programs, executive institutions disproportionately emphasize capital-intensive STPs and river-interlinking proposals while failing to notify River Conservation Zones, protect floodplains from construction debris, or guarantee minimum environmental flows. As civil-society critics of Vanashakti-II underscored, tolerating unappraised development on lake banks under sunk-cost arguments destroys natural flood buffers and heightens Article 21 vulnerability.

Fourth is a recurring **pattern of prospective strictness paired with retrospective accommodation**. In DPCC v. Lodhi Property, the Supreme Court affirmed robust Board restitutionary powers for future enforcement while barring recovery on the contested 2006 notices; likewise, in Vanashakti-III, the Court reinforced mandatory prior EC prospectively while insulating past beneficiaries of the invalid 2021 Office Memorandum. Unless regulatory agencies and courts consistently enforce baseline rules from the outset, repeat violators face rational incentives to create irreversible facts on the ground in anticipation of periodic amnesties.

7. Conclusion and Constitutional Reform Imperatives

Over three decades, Indian environmental jurisprudence has forged an unambiguous constitutional obligation binding the State as public trustee of water bodies under Articles 21, 14, 48A, and 51A(g). Decisions between 2024 and late 2026 markedly sharpened the doctrinal toolkit: M.K. Ranjitsinh tied groundwater stress and water shortages directly to fundamental equality; DPCC v. Lodhi Property confirmed SPCBs' authority to impose ex-ante bank guarantees and restitutionary damages; Vanashakti-III stabilized prior environmental clearance through eco-centric proportionality and official accountability under Section 15B of the EPA; and Anand Arya extended scientific boundary demarcation to non-notified water bodies and 5,55,557 small wetlands nationwide. Closing the remaining gulf between constitutional promise and ecological reality requires five targeted institutional and legal reforms:

1. **Enacting Subordinate Legislation Under Section 33A of the Water Act:** Every SPCB and Pollution Control Committee should promptly notify formal subordinate rules pursuant to DPCC v. Lodhi Property, establishing objective ecological damage-valuation methodologies, ex-ante bank-guarantee formulas, natural justice hearings, and transparent appeal pathways.

2. **Harmonizing the 2017 Wetlands Rules and Executing Rule 7(1)(a) Demarcation:** The Union Government should amend the Wetlands Rules, 2017, to align definitions with ISRO's hydrological standards and restore explicit NGT appeal rights, while all States should replicate Tamil Nadu's four-stage GIS, cadastral, and DGPS boundary-pillar model within the Supreme Court's four-month timeline to safeguard small wetlands (< 2.25 ha) and non-notified water bodies.

3. **Operationalizing Personal Liability for Public Officials:** Pollution regulators and tribunals should systematically enforce Section 48 of the Water Act (one-month basic salary penalties on departmental heads) alongside Section 15B of the EPA (affirmed in Vanashakti-III) against municipal, irrigation, and public-works authorities responsible for untreated sewage discharge or unappraised construction.

4. **Enforcing Basin-Level Environmental Flows, Floodplain Protection, and Real-Time Monitoring:** River conservation programs must pair STP expansion with legally notified River Conservation Zones, strict removal of floodplain encroachments, binding

environmental-flow releases, and 100% OCEMS connectivity across Grossly Polluting Industries.

5. **Subjecting 2024 Water Act Exemptions and Guidelines to Precautionary Scrutiny:** In operationalizing Sections 25 and 27A of the Water (Prevention and Control of Pollution) Amendment Act, 2024, the Central Government and CPCB should mandate transparent hydrological impact appraisals and public disclosure prior to exempting any industrial category, ensuring regulatory streamlining does not erode Article 21 protections.

REFERENCE:

1. Cases Mentioned in the Report:

1. Virender Gaur v. State of Haryana, (1995) 2 SCC 577 — cited in *M.K. Ranjitsinh* para 22.

2. Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212 (also reported as AIR 1996 SC 1446; see also (1996) 5 SCC 281).

3. Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647

4. M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 (and order on environmental costs/Article 21/48A/51A(g) in (2000) 6 SCC 213, AIR 2000 SC 1997).

5. Deepak Nitrite Ltd. v. State of Gujarat, (2004) 6 SCC 402.

6. Research Foundation for Science (18) v. Union of India, (2005) 13 SCC 186.

7. Perumatty Grama Panchayat v. State of Kerala, 2004 (1) KLT 731 (High Court of Kerala, W.P.(C) No. 34292 of 2003, decided 16 December 2003); reversed in *Hindustan Coca-Cola Beverages (P) Ltd. v. Perumatty Grama Panchayat*, 2005 (2) KLT 554 : (2005) 3 ILR (Ker) 192 (High Court of Kerala, W.A. No. 2125 of 2003, decided 7 April 2005); SLP notice issued by Supreme Court on 6 May 2005.

8. Karnataka Industrial Areas Development Board (KIADB) v. C. Kenchappa, (2006) 6 SCC 371.

9. Bombay Dyeing & Mfg. Co. Ltd. (3) v. Bombay Environmental Action Group, (2006) 3 SCC 434. Mentioned in Section 2.3.

10. Splendor Landbase Ltd. v. Delhi Pollution Control Committee, (2010) 173 DLT 52 (High Court of Delhi, Single Judge, decided 30 September 2010); affirmed in *Delhi Pollution Control Committee v. Splendor Landbase Ltd.*, 2012 (195) DLT 177 (High Court of Delhi, Division Bench, LPA No. 895/2010, decided 23 January 2012).

11. Bharti Realty Ltd. v. Delhi Pollution Control Committee (High Court of Delhi, Single Judge, decided 12 July 2011 and 15 September 2011; affirmed by Division Bench in 2012).

12. Jagpal Singh v. State of Punjab, (2011) 11 SCC 396.

13. T.N. Godavarman Thirumulpad, In re v. Union of India, (2013) 8 SCC 198

14. State Pollution Control Board, Odisha v. M/s Swastik Ispat Pvt. Ltd., 2014 SCC OnLine NGT 13 (National Green Tribunal).

15. Common Cause v. Union of India, (2017) 9 SCC 499 (W.P.(C) No. 114 of 2014, decided 2 August 2017).

16. Mohd. Salim v. State of Uttarakhand, 2017 SCC OnLine Utt 367 (High Court of Uttarakhand, W.P. (PIL) No. 126 of 2014, decided 20 March 2017); Special Leave to Appeal (C) No. 016879/2017 (Supreme Court order dated 7 July 2017).

17. M.K. Balakrishnan & Ors. v. Union of India & Ors., W.P.(C) No. 230 of 2001 (Supreme Court of India; order dated 8 February 2017; connected with *Anand Arya v. Union of India*, order dated 12 October 2026).

18. Alembic Pharmaceuticals Ltd. v. Rohit Prajapati, (2020) 17 SCC 157.

19. Tanaji B. Gambhire v. Chief Secretary, Government of Maharashtra, Appeal No. 34/2020 (WZ) (National Green Tribunal, order dated 24 May 2021).

20. Pahwa Plastics (P) Ltd. v. Dastak NGO, (2023) 12 SCC 774 (decided 25 March 2022).

21. Electrosteel Steels Ltd. v. Union of India, (2023) 6 SCC 615.

22. D. Swamy v. Karnataka State Pollution Control Board, (2023) 20 SCC 469.

23. M.K. Ranjitsinh & Ors. v. Union of India & Ors., 2024 INSC 280 (Supreme Court of India, W.P.(C) No. 838 of 2019 with Civil Appeal No. 3570 of 2022, decided 21 March 2024) (and reference to subsequent December 2025 disposal and *Ridhima Pandey v. Union of India* noted in scholarly literature).

24. Delhi Pollution Control Committee v. Lodhi Property Co. Ltd. Etc., 2025 INSC 923 : 2025 SCC OnLine SC 1601 (Supreme Court of India, Civil Appeal Nos. 757–760 of 2013, decided 4 August 2025).

25. Vanashakti v. Union of India (Vanashakti-I), 2025 INSC 718 : 2025 SCC On Line SC 1139 (Supreme Court of India, W.P.(C) No. 1394 of 2023, decided 16 May 2025).

26. Vanashakti v. Union of India (Building & Construction EIA 2025 Notification Case), 2025 SCC OnLine SC 1703 (Supreme Court of India, W.P. No. 166 of 2025, decided August 2025).

27. Confederation of Real Estate Developers of India (CREDAI) v. Vanashakti (Vanashakti-II / Review Order), 2025 INSC 1326 : 2025 SCC OnLine SC 2474 (Supreme Court of India, Review Petition (C) Diary No. 41929 of 2025, decided 18 November 2025).

28. Vanashakti v. Union of India (Vanashakti-III), 2026 INSC 761 : 2026 SCC OnLine SC 1404 (Supreme Court of India, decided 29 July 2026).

29. Anand Arya v. Union of India, W.P.(C) No. 304 of 2018 (connected with *M.K. Balakrishnan v. Union of India*, W.P.(C) No. 230 of 2001, and W.P.(C) No. 302 of 2020) (Supreme Court of India, Order dated 12 October 2026; also referencing order dated 28 July 2026 on IA No. 103382/2025).

30. Ridhima Pandey v. Union of India (referenced in Malik & Sharma, Panjab University Law Review, Vol. 64(2)).

2. Statutes, Constitutional Provisions, and Delegated Legislation Mentioned in the Report:

1. The Constitution of India, 1950 — Articles 14, 21, 32, 48A, 51A(g), 252(1), 252(2), and Seventh Schedule.

2. Water (Prevention and Control of Pollution) Act, 1974 (Act No. 6 of 1974, enacted 23 March 1974).

3. Air (Prevention and Control of Pollution) Act, 1981 (Act No. 14 of 1981).

4. Environment (Protection) Act, 1986 (including Section 3 and Section 15B as inserted by the Jan Vishwas (Amendment of Provisions) Act, 2023).

5. Environmental Impact Assessment (EIA) Notification, 2006 (S.O. 1533(E), dated 14 September 2006).

6. Wetlands (Conservation and Management) Rules, 2010.

7. Notification S.O. 804(E), dated 14 March 2017 (Ministry of Environment, Forest and Climate Change).

8. Wetlands (Conservation and Management) Rules, 2017 (notified 26 September 2017, including Rule 7(1)(a)).

9. Office Memorandum F. No. 22-34/2018-IA.III, dated 7 July 2021 (Ministry of Environment, Forest and Climate Change).

10. Jan Vishwas (Amendment of Provisions) Act, 2023.

11. Water (Prevention and Control of Pollution) Amendment Act, 2024 (Act No. 5 of 2024, Presidential assent 15 February 2024).

12. MoEFCC EIA Amending Notification dated 29 January 2025 and Office Memorandum dated 30 January 2025.

3. Official Government Data, Audit Reports, and Parliamentary Materials:

1. Comptroller and Auditor General of India (CAG), *Report No. 21 of 2011: Performance Audit of Water Pollution in India* (Ministry of Environment and Forests, tabled 16 December 2011).

2. Comptroller and Auditor General of India (CAG), *Report No. 39 of 2017: Performance Audit on Rejuvenation of River Ganga (Namami Gange)* (Ministry of Water Resources, River Development and Ganga Rejuvenation, submitted 19 December 2017; summarized by PRS Legislative Research).

3. Ministry of Environment, Forest and Climate Change (MoEFCC), *Rajya Sabha Unstarred Question No. 855 ("New Wetlands (Conservation and Management) Rules, 2017")*, answered on 19 September 2020.

4. Comptroller and Auditor General of India (CAG), *Report No. 9 of 2021: Performance Audit of Ground Water Management and Regulation (2013–18)* (Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, tabled 21 December 2021).

5. Parliamentary Standing Committee (18th Lok Sabha / Water Resources) — *27th Report on "Review of Upper Yamuna River Cleaning Projects upto Delhi and Riverbed Management in Delhi"* (presented to Parliament on 6 February 2024, as analyzed in SANDRP 2024).

6. Standing Committee on Water Resources (2024–25, Eighteenth Lok Sabha), *Seventh Report: Action Taken by the Government on the Observations/Recommendations contained in the Second Report on Demands for Grants (2024–25) of the Ministry of Jal Shakti* (presented to Lok Sabha and laid in Rajya Sabha on 11 August 2025).

7. Ministry of Jal Shakti / Central Pollution Control Board (CPCB), *"Polluted River Stretches Identified by CPCB"* (Rajya Sabha Unstarred Question No. 2487, Press Information Bureau Release ID 2155023, 11 August 2025).

8. Ministry of Jal Shakti / Central Pollution Control Board (CPCB), *Polluted River Stretches for Restoration of Water Quality (2025)* and *"Critically Polluted River Stretches"* (Lok Sabha Unstarred Question No. 881, Press Information Bureau Release ID 2198916, 4 December 2025; also reported in *The Hindu* / Super Kalam, 21 July 2026).