

MIND YOUR LAW

JUDICIAL REVIEW

Foreword by

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Edited by

SK Bose

SCOPE
LIMITATION &
OVERREACH

ISBN 978-93-342-6760-0

MIND YOUR LAW

This book is a publication of Mind Your Law, 2nd Floor, Building No 2207, Sector-9, Behind HUDA Market,
Faridabad, Haryana -121006 Tel: +91 129 4024006

Website: www.mindyourlaw.in

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SK Bose, *Judicial Review: Scope Limitation and Overreach* Edition 2025

ISBN: 978-93-342-6760-0

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Judicial Review: Scope Limitation and Overreach

ISBN: 978-93-342-6760-0



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GUARDIAN OF THE GREEN: FEDERALISM AND JUDICIAL REVIEW IN INDIA AS PROTECTOR OF OUR PLANET

-Dr. Mirza Juned Beg¹

Abstract

In an era marked by the urgent crescendo of ecological crises, the intricate tapestry of environmental federalism emerges as a pivotal construct in navigating the labyrinthine challenges of sustainable governance. This scholarly exploration delves into the dynamic interplay between federalism and judicial review, illuminating the delicate balance between national imperatives and local aspirations in environmental stewardship. Through a kaleidoscope of legal frameworks and judicial interpretations, the narrative intricately weaves the threads of authority, accountability, and ecological integrity, revealing the profound implications of judicial oversight in enhancing or constraining environmental policy.

As the judiciary assumes its role as both arbiter and guardian of the environment, this examination posits that judicial review serves as a vital fulcrum, ensuring that the imperatives of environmental justice resonate across the fragmented landscape of governance. By scrutinizing landmark cases and legislative milestones, this work elucidates how the judiciary shapes the narrative of environmental federalism, fostering a symphony of cooperative engagement while grappling with the discordant notes of state versus federal authority. This discourse aspires to catalyze a deeper understanding of the harmonious interplay between law and nature, urging stakeholders to engage in a collective. Ultimately, this work aspires to contribute to the ever-evolving narrative of environmental jurisprudence in India, urging a contemplative reflection on our collective responsibility toward the Earth and future generations.

Keywords: Environment, Federalism, Judicial Review, India.

Introduction

“It is horrifying that we have to fight our own government to save the environment.”

-Ansel Adams²

Navigating Indian federalist issues is a significant aspect of the art of governance. The nation is vast in terms of both people and land area, possesses a remarkable diversity of cultures, and is made up of constituent regions with drastically disparate economic histories. Indian federalism has alternated between eras of state autonomy to meet local demands and periods of central dominance to reconcile conflicting interests.

The localized requirements of climate governance are not well served by India’s federal system. With a federal government that has more fiscal, administrative, and jurisdictional authority than in more traditional, decentralized federations, it is extremely centralized. However, Indian states are in charge of a number of areas that are essential to combating climate change, ranging from health and water to the emissions-intensive energy industry. Because of this, complex forms of collaboration between the two levels are crucial.

¹ Assistant Professor, Faculty of law, Integral University, Lucknow.

² An American Photographer and Environmentalist (1902-1984).