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## Ecology is a Permanent Economy:

### Applying the RLEK Precedent to Today's Himalayan Development

*Gorvi Breja*

#### Introduction

The Himalayas, also known as the crown of India, are one of the most ecologically sensitive areas of the world. This resource-rich and unstable area has long been subject to competing pressures of conservation and development. In recent decades, the construction of hydropower projects, highways, and the enhancement of tourism infrastructure in the Himalayan states like Uttarakhand, Himachal Pradesh, and Sikkim have raised a fundamental legal question: Can such development be permitted in ecologically vulnerable zones at the expense of long-term environmental stability?

According to the Indian jurisprudence, the clear answer to this question is no; such activities that hamper the balance of the environment are prohibited in such ecologically sensitive areas. The Supreme Court of India, in the landmark case of Rural Litigation and Entitlement Kendra (RLEK) v. State of Uttar Pradesh,<sup>1</sup> famously declared that "ecology is a permanent economy."

This three-decade-old principle, given by the Supreme Court, still remains profoundly relevant even today as the Himalayas continue to bear the brunt of unchecked development, which is inherently causing damage to the ecology.

#### The RLEK case, a landmark case in Environmental Law

The landmark case of Rural Litigation and Entitlement Kendra V. State of Uttar Pradesh started from the limestone quarrying operations in the Mussoorie hills of then Uttar Pradesh state.

A public interest litigation was filed before the Supreme Court of India by an NGO from Dehradun, named Rural Litigation and Entitlement Kendra. The PIL was filed to gain the attention of the Supreme Court towards the devastation caused by rampant mining in the Himalayan region, which caused landslides, deforestation, disruption of water sources, and the erosion of hillside ecology. In a series of orders between 1985 and 1988, the Supreme Court directed the closure of several limestone quarries to prioritize environmental protection over economic activities and employment generation.

The Supreme Court in this case emphasized the importance of long-term ecological balance, which was being hampered by the short-term economic gains from quarrying, and the ecological cost of such environmental damage will not just be borne by the present generation, but also by future generations. Such mining causes irreversible damage to the ecology.

The Court stated that the state could not permit the exploitation of natural resources when the ecology is in danger. This case highlighted the use of sustainable development in India

The judgment also reinforced the State's duty under Article 48A and 51A of the Constitution, which mandates the State to protect and improve the environment. Hence, the RLEK case is one of the landmark cases in Indian environmental Law.

### **The current reality of the Himalayan development crises**

Even after four decades of the RLEK judgment, it still holds immense importance when it comes to the ecological balance in the Himalayan region. For instance, take the example of the new initiative of the Uttarakhand government, the Char Dham Pariyojana, which is a highway widening project spread across the state of Uttarakhand to increase the inflow of tourists to the state. This project faced sharp criticism from environmentalists and legal academia for the destruction it would cause to the ecology. The Supreme Court's High-Powered Committee, constituted in the matter of Citizens for Green Doon v. Union of India,<sup>2</sup> flagged serious ecological risks, including slope destabilisation, riverbank erosion, and the destruction of sensitive forest cover.

Such developmental projects lead to ecological imbalance, which leads to disasters, like the 2021 Chamoli disaster, the 2023 Joshimath land subsidence, the 2013 Kedarnath floods, and the frequent cloudbursts, which are examples of how developmental projects can lead to such crises.

Scientists at the Wadia Institute of Himalayan Geology have consistently warned that the Himalayas are still tectonically active and cannot sustain the load imposed by large infrastructure without causing any serious damage to the ecology.

In creating ecological imbalance, Hydropower projects present another challenge.

The Environmental Impact Assessment (EIA) framework under the Environment Protection Act, 1986<sup>3</sup> has repeatedly been criticised for inadequate cumulative impact assessments.

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Multiple dams built on the same river system, such as the Alaknanda and Bhagirathi basins, have altered the river's original hydrology, sediment flow, and aquatic biodiversity in such ways that a report cannot indicate.

### **Applying RLEK precedent in legal argument for ecological priority**

The principle of prioritization of the ecology, as given by the Supreme Court in Rural Litigation and Entitlement Kendra (RLEK) V. State of Uttar Pradesh, read with subsequent jurisprudence, offers a robust legal tool to challenge the unchecked Himalayan development.

First, the precautionary principle endorsed in Vellore Citizens' Welfare Forum v. Union of India<sup>4</sup> mandates that where there is uncertainty about environmental harm, the burden of proof lies on the developer to demonstrate safety, not on the public to prove damage

Second, the public trust doctrine, affirmed in M.C. Mehta v. Kamal Nath<sup>5</sup>, holds that the State holds natural resources, rivers, forests, and hills in trust for the public. Any governmental action that depletes this trust corpus for private or commercial benefit, without adequate ecological safeguards, constitutes a breach of this constitutional trust.

Third, the inter-generational equity doctrine demands that present exploitation should not compromise the rights of future generations to a clean and stable environment; this principle is directly traceable to the RLEK reasoning.

### **The way forward**

The landmark judgment of the RLEK case showcases the need for several legal reforms in the field of environmental laws; it also recalibrates the state to think about its developmental policies in the Himalayas. The environmental impact assessment, or the EIA, must make it mandatory to carry out carrying-capacity assessments for all infrastructure projects in ecologically sensitive zones.

The Wildlife Protection Act, 1972<sup>6</sup> and the Forest (Conservation) Act, 1980<sup>7</sup> must be strictly enforced to preserve the ecology.

The National Green Tribunal (NGT), established under the National Green Tribunal Act, 2010<sup>8</sup>, has jurisdiction to examine the environmental compliance of Himalayan projects; it should do the work of proper examination in such sensitive zones.

### **Conclusion**

Nature does not run on the policies of the government; it has its own course and runs on its own pace

RLEK's judgment lies in its recognition of this bitter truth, that ecology is itself the foundation of all economy. No matter how much development is taking place, it has no value if the ecology is not on our side. Any disruption to the ecology can lead to huge economic losses; it not only

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risks economic loss but can also lead to civilisational collapse in the densely inhabited mountain regions.

The RLEK case, hence, can be correctly called “ecology's voice in the halls of power”.

### **References**

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