



CORPORATE SOCIAL RESPONSIBILITY TOWARDS THE ENVIRONMENT

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INTRODUCTION

Production is important but at the same time saving the environment is also an important responsibility. The problem of environmental pollution is as old as the evolution of humans on earth. With passage of time and development, this problem has increased rapidly. Industrialisation, urbanisation, population explosion, etc. are the major responsible factors.

The Supreme Court in *Shri Sachidanand Pandey V. State of West Bengal*¹ has observed:

‘While the scientific and technological progress of man has invested him with immense power over nature, it has also resulted in unthinking use of power, encroaching endlessly on nature.’

Thus in the present scenario where the world is facing such a catastrophe of environmental degradation and exhaustion of environment for the future generations. Corporate social responsibility is the idea that businesses should balance their profit making objective with activities that benefit society and the natural resources, it is the people with change in their attitude and changing perception towards environmental ethics who can solve this problem and at the same time work for sustainable development of environment. It implies that organisations are required to contribute some of their resources towards various social responsibilities. Corporate social responsibility is not only concerned with the responsibility towards the environment, it is just one of its several aspects but also consists of the philanthropic responsibility, ethical business practices and economic responsibility. Environmental responsibility means that business organisations should work in harmony with nature in order to reduce and eliminate the ecological crises that we are facing today. Philanthropic initiatives means working for human causes on a large scale. It is an effort that an individual or organisations undertake based on their altruistic desire to work for the improvement of the society i.e. human welfare. However, ethical business practices are those values or norms that are used to guide businesses in a manner that they maintain better connection with their stake holders, consumers and society at large. Economic responsibility includes various other activities such as working to uplift and support women economic empowerment, etc.

Corporate social responsibility in India is the result of the companies Act, 2013. India is the first country to mandate the concept of CSR² for the companies. This is an agenda of the government to engage businesses in the national development program. Section 135 and the seventh schedule of the Companies Act, 2013 define the provisions related to corporate social responsibility that are further discussed in this paper.

This paper has tried to focus on corporate social responsibility towards the improvement of the environment and reducing the ecological crises. It has also attempted to discuss the various measures that could be taken under CSR to prevent the degradation of the environment and an

¹ [AIR 1987 SC 1109]

² Corporate Social Responsibility.

analysis of the working of certain business organisations towards CSR has also been taken into consideration.

LITERATURE REVIEW

Gitanjali, according to her, CSR is a measure taken by the government to impose an obligation on companies to give their positive impact on environment and the society. Using recycled waste, less consumption of water, etc. are some of the steps to ensure effectiveness of CSR on environment.

Dr. R. Sharath (2018) according to him, CSR is a way of extracting excess capital from the haves and transferring the same to the have nots through acts of charity and investing money for the improvement of environment.

Kumar Saurabh (2018) according to him, CSR laws are legislated with the hope that it would bring some changes in the society and improve the environment. The CSR instead of its good intentions has not given the results up to the mark as was presumed or expected.

RESEARCH OBJECTIVE

- To discuss the measures under Corporate Social Responsibility and their environmental impact.
- To analyse the effectiveness of CSR policy in environmental aspect in India.

RESEARCH QUESTIONS

- What is the relation between corporate social responsibility and the environment?
- What led to the evolution of corporate social responsibility laws in India?

HYPOTHESIS

CSR policy and related laws are formulated but their effectiveness is still in question.

RESEARCH METHODOLOGY

The doctrinal method of research has been adopted to accomplish the objectives of this paper. Secondary data is used in this research and it has been collected from certain government websites www.csr.gov.in and www.mca.gov.in .

CONCEPT OF CSR IN INDIA

The term “Corporate Social Responsibility” can be defined as corporate initiative to assess and regulate the company’s effects on social welfare and the environment. Thus CSR is not charity or mere donation, it is a way of conducting business through which corporate bodies contribute to the social good. Thus companies do not confine themselves to using resources and engaging

in activities that help them earn profit instead they use CSR to amalgamate their company's operations aimed at growth with the environmental and social objectives they have decided to undertake.

The UN Industrial Development Organisation has described CSR as "The way through which a company achieves a balance of economic, environmental and social imperatives (Triple Bottom Line Approach), while at the same time addressing the expectations of shareholders and stakeholders. CSR is not a new concept in India, however earlier there was no legislation or a written document to mandate this responsibility. But CSR as it exists today is the result of the Companies Act 2013. With this, India has become the first nation to have a legislation to implement and mandate the CSR activities. The Ministry of Corporate Affairs, Government of India has notified the section 135 of the Companies Act 2013 along with the Companies (Corporate Social Responsibility Policy) Rules, 2014 which makes it mandatory for certain companies who fulfil the criteria as prescribed under section 135(1) to comply with the provisions relating to the CSR activities.

The relevant provisions are as follows:

Section 135³

(1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(3) The Corporate Social Responsibility Committee shall,— (a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII; (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and (c) monitor the Corporate Social Responsibility Policy of the company from time to time.

(4) The Board of every company referred to in sub-section (1) shall,— (a) after taking into account the recommendations made by the Corporate Social Responsibility Committee,

³ The Companies Act 2013

approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and (b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities: Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

Seventh Schedule⁴ :

Schedule VII specifies activities which companies may include in their CSR Policies. These are activities relating to:

- Eradicating hunger, poverty and malnutrition.
- Promoting health care including preventive healthcare and sanitation including contribution to the Swachh Bharat Kosh set up by the Government for promotion of sanitation.
- Making available safe drinking water.
- Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled.
- Livelihood enhancement projects.
- Promoting gender equality.
- Empowering women.
- Setting up homes and hostels for women and orphans.

⁴ The Companies Act 2013

- Setting up old age homes, day care centres and such other facilities for senior citizens, measures for reducing inequalities faced by socially and economically backward groups .
- Ensuring environmental sustainability.
- Ecological balance.
- Protection of flora and fauna.
- Animal welfare & Agroforestry.
- Conservation of natural resources.
- Maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set up by the Central Government for rejuvenation of river Ganga.
- Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art.
- Setting up of public libraries.
- Promotion and development of traditional arts and handicrafts.
- Measures for the benefit of armed forces veterans, war widows and their dependants.
- Training to promote rural sports, nationally recognized sports, paralympic sports, Olympic sports.
- Contribution to the Prime Minister’s National Relief Fund or any other fund set up by the Central Government for socioeconomic development and relief and welfare of SC/ST/OBC, minorities and women, etc.

Penalty in case of contravention of CSR provisions:

There is no specific punishment provided for defaulting on CSR spends obligations. So such defaults attracts punishment under section 450 titled “Punishment where no specific penalty or punishment is provided”.

Section 450 provides⁵-

- (a) A company or any officer of a company or any other person contravenes:
 - (i) any of the provisions of this Act or the rules made thereunder,

⁵ The Companies Act 2013.

(ii) any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted.

(b) No penalty or punishment is provided elsewhere in this Act for the contravention as above.

(c) If conditions (a) and (b) are satisfied, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to 10,000 and where the contravention is a continuing one, with a further fine which may extend to 1,000 for every day after the first during which the contravention continues.

RELATION BETWEEN CSR AND ENVIRONMENT

All businesses have to consider moral questions. If a business organisation focuses solely on their business without considering the implications of its relationship with the community or society as a whole that would lead to the complete neglect of the environment on the part of the business organisations. Decision making in business has become complex due to environmental questions having been attached with corporate activities.

Corporate social Responsibility is a wider term that covers within its ambit various aspects or facets of social welfare. The triple bottom line approach to corporate social responsibility emphasizes on the company's commitment to operate in economically, socially and environmentally sustainable manner. Thus it can be said that CSR includes the following-

- Economic upgradation
- Fulfilment of social obligations
- Environment protection

Protection and improvement of environment is an indispensable part of any organisation whether working for environment sustainability or engaged in any other business activity. Green marketing may be sometimes considered as a strategy for future profitability. Since business operates in a community and works within a physical and ethical framework, it has to consider the environment as an ethical issue.⁶ Business organisations often consider CSR as an instrument of profit maximization, in such situations it becomes essential to differentiate

⁶ Biswanth Ghosh, "Ethics in management and Indian Ethos".

between ethical action and good business sense. They should take it as a responsibility instead of taking it as a profitable business technique.

CSR denotes a responsibility of giant corporate entities to work towards the social welfare of the society. It includes providing basic human needs, upliftment of basic human rights, poverty eradication measures, proper sanitation facilities, improved standards of women education, etc. However social welfare cannot be achieved efficiently without taking into consideration the natural environment which is an indispensable part of it. Thus, businesses working under CSR need to have environmental concerns in their business operations. CSR is a set of management practices that ensure the company minimizes the negative impacts of its operations on society while maximizing its positive impacts on the protection of the environment.⁷ In the words of Mahatma Gandhi, business entrepreneurs are trustees and not the owners of the social wealth and they have to spend a part of it for social causes. His trusteeship principle was ‘enjoy the wealth, take the minimum which you need, leave the rest to the welfare of community.’⁸ Thus his definition gives a new dimension to the concept of CSR where corporate entities are merely the trustees of the society and the environment and thus they must work for the sustainable growth and development of the society and the environment.

Corporate social responsibility means that the corporate sector which is earning profit through the sale of its goods and services in the society also has some responsibility towards it for its development. Social welfare cannot be achieved without the clean and pure environment in which the society lives. Without pollution free air, pollution free water, etc. social upliftment of masses cannot be achieved. Preservation of resources occurring naturally in environment is also a point of concern. Their depletion should be checked and sustainable use of resources should be promoted. Thus, protection and improvement of environment and social welfare are interrelated, social responsibility cannot be completed or fulfilled without working for the betterment of the environment.

⁷ C. Pinney, “How to manage Corporate Social Responsibility and Reputation in market place: the challenge for Canadian Business”.

⁸ Rohit Sharma, “Corporate Social Responsibility and Environmental Protection”.

ROLE OF JUDICIARY AND THE GOVERNMENT IN THE EVOLUTION OF CSR POLICY IN INDIA

India is a welfare state, but with the adoption of the LPG policy i.e. Liberalization Privatization and Globalisation public sector gradually shifted to private one. Government has a constitutional obligation in India to work social welfare and protection and improvement of the environment. However, with the evolution of private sector this very objective or aspect has been side lined and witnessed a downfall meaning thereby, that private sector organisations work only with profit making motive and have no concern regarding social welfare. Therefore, the new concept of ‘Corporate Social Responsibility’ was given emphasis to by judicial decisions and the legislative provisions were made.

When social welfare is talked about, the right to healthy environment automatically comes into picture. Article 21 of Indian Constitution grants right to life which includes within its ambit a no. of rights that are indispensable when life is considered. It includes the right to live with human dignity and in a healthy and clean environment, right to food, clean drinking water and various other things that are all together very much essential for the social upliftment of the people.

Even the Universal Declaration of Human Rights 1948 has defined that everyone has the right to life⁹ and that everyone also has the right to a standard of living adequate for the health and well-being of himself and of his family¹⁰. The Supreme Court of India for the first time recognised the right to clean environment in *Rural Litigation and Entitlement Kendra V. State of UP*¹¹. Afterwards a no. cases were filed where the judiciary played important role in widening the concept of right to clean environment. In 1985 The Bhopal gas tragedy case posed various questions before judiciary and it was realised that in order to preserve the environment and to protect the right of the people to live in clean and healthy environment responsibility has to be posed upon the big corporate entities that operate in society but show no concern towards their duty to work for the betterment of the society and the environment they work in for promoting their businesses. Thus the emphasis was given on the concept of CSR however, along with it judicial decisions also bring into the light the concept of ‘Corporate Environment

⁹ Article 3.

¹⁰ Article 25.

¹¹ AIR 1985

Liability'. In Oleum gas leak case¹² judiciary laid down the principle of Absolute Liability which is another concept that deals with the aftermath of hazardous accidents i.e. the destruction they cause to the society and the environment. But through all such cases the judiciary has emphasized on the importance of having clean environment which cannot be neglected while discussing about corporate social responsibility of the corporate entities. The judiciary has affirmed several principles that are of much relevance when corporate social responsibility is considered. Some of the principles are Principle of absolute liability, Polluter Pays Principle, Precautionary Principle¹³, Principle of Sustainable development, etc. Supreme Court in *M.C. Mehta v. Union of India*¹⁴ and in *Indian Council for Environmental Action v. Union of India*¹⁵, in *Vellore Citizen's Welfare Forum v. Union of India*¹⁶ declared that polluter pays principle is an essential feature of sustainable development. The Supreme Court applied the doctrine of sustainable development in *K. M. Chinnappa V. Union of India*¹⁷ and held that 'Sustainable Development' is a policy and a strategy for continued economic and social development without detriment to the environment and the natural resources on the quality of which continued activity and further development depends.

Thus, the management of environmental performance is an important issue for both the business organisations whether public or private. In today's scenario environmental management has become an integral part of CSR policy. Indian corporates in contemporary time have taken full advantage of 'not so strict' rules in this regard thus, maximising their own profits at last. Therefore, CSR is an effort to regulate such corporations so that they pay back to the community as a whole to compensate the losses caused by them and prevent the further harm to society and the environment. Consequently CSR has moved far beyond the traditional approach and has become an all year round responsibility that companies are bound to accept. The Companies Act, 2013 has introduced the idea of CSR to the forefront. Earlier there was no such legislation to direct the corporate entities to work towards social welfare and improvement of environment. But with the enactment of 2013 India became the first country to mandate the concept of CSR. In the draft Companies bill, 2009 the CSR clause was

¹² AIR 1987 SC 985.

¹³ *M.C. Mehta V. Union of India* [AIR 1997 SC 734].

¹⁴ AIR 1987 SC 1086.

¹⁵ (1996) 3 SCC 212.

¹⁶ (1996) 5 SCC 647.

¹⁷ AIR 2003 SC 724.

voluntary, though it was mandatory for the companies to disclose their CSR spending to shareholders. CSR has not been defined by the Companies Act, 2013 but it has been defined under Companies (Corporate Social Responsibility Policy) rules, 2014 as:

CSR includes but is not limited to¹⁸ –

- Projects related to activities specified in the seventh schedule.
- Projects related to activities taken by the company board as recommended by the CSR committee, provided those activities cover items listed in the seventh schedule.

These rules and the provisions of the Act together are a comprehensive legislative framework that work for the promotion of CSR policy in India.

MEASURES UNDER CSR AND ITS IMPACT

The main objective of CSR policy is to make CSR an instrument to promote sustainable development of the society. Thus the measures that are taken under CSR policy are aimed at promoting the social welfare and protecting and improving the environment. Following are some of the measures that can be taken by the corporate entities:-

- Promotion of education and focusing on skill development programs.
- Protection of national and cultural heritage of the nation.
- Certain rural development projects can be initiated.
- Promoting health care and sanitation facilities and making available drinking water.
- Empowering women through education and their economic upliftment.
- Eradicating hunger, poverty and malnutrition.

Particularly in environmental sphere to ensure environment sustainability and maintain ecological balance following measures can be taken:-

- Protection of flora and fauna and working for animal welfare.
- Conservation of natural resources and maintaining quality of air, water and soil.
- Reducing waste generation.
- Adopting use of recycled waste.
- Proper disposal and dumping of non-recyclable waste.
- Promoting afforestation.
- Opting environment friendly packaging materials for business purposes.

¹⁸ Rule 2 clause 1(c)

- Reducing carbon emissions to the minimum in the environment.

CSR policy can create a great impact on the environment as well as business organisations if followed properly and diligently. It can bring about a tremendous change in the society. Its impact on the environment and the business organisations can be discussed as follows-

Impact on environment:

The main objective of environmental CSR is the elimination of waste and emissions and minimising practices that may adversely affect the use of natural resources by future generations. Private sector being under no obligation and working only with profit making motive has neglected negative impact it has been creating on the society and the environment. Thus in today's point of time, need has arisen to make them realise the loss and harm they have been causing to the society and the environment and therefore, they are placed under mandatory obligation to work for creating positive impacts on the environment. The measures taken under the environmental CSR policy have positive impacts on the environment and provide an opportunity to promote environmental sustainability. Thus by incorporating business practices that also consider the effect of their businesses on the environment, finite natural resources can be stretched further.

Impact on business organisations:

Measures taken under CSR policy have the following advantages for business organisations-
Increased sales and customer loyalty: attracts consumers and may increase consumer base as the awareness of the global environmental problems grows due to progressively better educated consumers, they look for the companies that fulfil their demands without compromising their future.

Operational cost savings: reduces the cost incurred by the companies by adopting certain measures such as using recycled material, reducing waste generation and emissions, etc.

Improved ability of decision making: the integration of CSR policy in business will also help the businesses to become aware of the global issues and the needs of the environment beforehand and thus taking decision accordingly.

Reduced regulatory burden: taking CSR as an obligation to limit the damage inflicted on the environment also reduces the burden of the government and the courts. Businesses that support these initiatives benefitting the environment and ultimately decreasing the government regulation are less likely to face any adverse legal impact. They reduce the risk of non-

compliance actions and this way they have positive impact on themselves as well as on the environment as they become self-motivated rather than dictated by changes in law.¹⁹

Identification of new business opportunities: innovation is often an outcome of CSR measures merged with business organisations as it would bring some operational and other changes that ultimately leads to new product development in many cases.

Positive business reputation and better brand recognition: this is also another positive impact of CSR policy if implemented and followed by business organisations cautiously. Therefore, CSR is considered important not only for the society but also for the corporate entities that will definitely have benefits out of it.

ANALYSIS OF EFFECTIVENESS OF CSR POLICY IN TERMS OF ENVIRONMENT

This chapter of the paper has tried to provide an insight on the implementation platform used by the corporate entities to implement CSR activities. An effort has been made to analyse the current trends in CSR in India, particularly how corporate entities are managing with CSR policy and what lacunas or drawbacks are there in the current CSR policy framework. The design of the program initiated by companies under CSR is of great importance. However, implementation of such program and its disclosure as to how companies are disclosing their CSR activities to the government and the public plays a crucial role in analysing the existing situation of corporate entities and effectiveness of CSR legislation.

Findings and discussion is based on research conducted using secondary data and literature review on information available publicly.

Financial Year	2014 – 2015	2015 – 2016	2016 – 2017	2017 – 2018	2018 – 2019
Amount spent on CSR activities in India ²⁰ (crores)	10,065.93	14,517.21	14,333.04	13,708.02	18,653.48

The data shows the amount spent by the big corporate entities for fulfilling their CSR obligation. The amount spent in financial year 2014 -15 was 10,065.93 crores which increased to 14,517.21 crores in financial year 2015 – 2016 and it faced a downfall in year 2016 – 2017 as the amount decreased to 14,333.04 crores. And it again went down from 14,333.04 crores

¹⁹ Sabina Medarevic (2012), “Environmental Corporate Social Responsibility and the Carbon Economy: A case for CSR, The Triple bottom line and Obliquity”.

²⁰ <https://www.csr.gov.in/statelist.php>

to 13,708.02 crores. Thereafter, it increased to 18,653.48 crores. The downfall in the amount spent towards corporate social responsibility in year 2016 – 2017 and again in the year 2017-2018 consecutively raises a question mark on the effectiveness of the CSR policy and the related provisions and the working of the concerned authorities. The data is showing an uneven trend though marked by significant rise in the year 2018 – 2019. The downfall may be due to several reasons but such a situation needs to be taken into account and the government should check into the loopholes and ensure that a certain minimum amount should increase with every passing financial year.

Various activities are being undertaken by different companies to fulfil their obligation towards CSR such as, programs towards climate improvement, agriculture, women empowerment, water conservation, tree plantation, blood donation campaigns, rural sanitation campaigns and providing healthcare facilities to rural people, etc.

However, there are certain problems that are very basic and existing on ground level. If we consider the example of various companies manufacturing aerated drinks and those manufacturing dairy products, all have been working towards their corporate social responsibility and undertaking various programs but at the same time they are ignoring a major problem caused by them that has an adverse effect on the environment i.e. the improper disposal of tetra packs of dairy products (milk, buttered milk, curd, etc.) manufactured by these companies and the PET²¹ bottles used by companies manufacturing aerated drinks. Though they are recyclable but they have low recyclable value moreover there is no proper mechanism of their collection and disposal formulated by these companies and the whole process is left to the unorganised sector of rag pickers. So the point of concern is that though these companies are working for the fulfilment of their obligation under CSR but they are also neglecting one of the major problems being caused by them to the environment. Thus from this point of view they are somewhere lacking in the fulfilment of their CSR obligation.

Another issue in this regard is that mere disclosure of sustainability report by the companies in general is not sufficient, work shown as done and work actually done are the two different things and there is no such tool or any instrument that could bring out a clear difference between the two, such point of concerns must be taken into account by the government and provisions

²¹ Polyethylene Terephthalate.

should be made that an analysis of such reports could be done substantially and not only apparently.

Thus the efforts made by various companies and data showing the investment done under CSR activities in India during previous years since 2014 onwards do not prove that the whole corporate sector is actually and effectually working towards CSR policy. However, it shows that companies are taking initiatives and considering CSR as their obligation. But still the whole setup needs to be regulated more efficiently in order to have proper practical application of the CSR policy framework.

CONCLUSION

With the advent of corporate social responsibility the corporate organisations started inclining towards the social causes primarily charitable ones but it was realised that CSR is not merely a charitable policy in fact it has much wider connotation. It aims at realising the impacts that a business has on the society and the environment and considering the ways and taking the initiatives that ultimately create positive impact on the society. It simply means working in a manner that results in the upliftment of the society in terms of education, economic upliftment, improved social infrastructure and other basic amenities of life. It basically refers as to how corporate entities operate in the society and what impact does they create on the society and the environment.

However in my opinion there are certain drawbacks with the existing CSR policy framework such as, there is neither any proper tool nor any criteria to check the practical application of the CSR measures, mere furnishing the reports on the company's website in itself cannot be said to be an effective step taken by the government to ensure the implementation of the CSR policy by the companies. The question arises as to the authenticity of the facts and figures mentioned there in and the criteria to check the authenticity there of is another point of concern. Though it is primarily assumed that no company would do such act which would be detrimental for its reputation and business but still measures should be taken on the part of the government to ensure the authenticity of the reports disclosed by the companies. Moreover, committee directed to be formed under section 135 of the Companies Act 2013 consists of the members that are the persons of the company only except one independent director.

Another issue is regarding the penalty provisions, no separate provision has been made in the Act to deal with the violations of CSR provisions. They are covered under the general penalty

provision specified under section 420 of the Act. And the penalty which is levied i.e. amount of rupees 10,000 is negligible in terms of the companies' net worth or turn over or the net profit. It would be easier for any company to escape their liability under CSR easily and make payment of meagre amount of money in default of it, even the fine charged in case of continuing violation is also very less. Thus such penalty provisions become ineffective. Therefore, the joint effort of the government and the companies is required to make the concept of Corporate Social Responsibility more effective and workable.

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