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From Disclosure to Due Diligence: Reimagining Corporate Freshwater Governance in India's Digital Infrastructure Era

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The rapid development of India's digital infrastructure and artificial intelligence sector has significantly elevated the economic prominence of data centres, while concurrently highlighting the substantial volume of freshwater resources required for ongoing thermal management. This article examines the structural relationship between India's prevailing corporate environmental framework and freshwater resource management, analysing how the current legal architecture, principally the Water (Prevention and Control of Pollution) Act 1974 and Business Responsibility and Sustainability Reporting mandates, operates to separate disclosure compliance from actual resource conservation. By focusing primarily on effluent discharge quality and internal operational efficiencies rather than cumulative extraction volumes, existing mechanisms permit enterprises to maintain favourable sustainability ratings while drawing heavily from constrained hydrological basins. Utilising Roscoe Pound's sociological jurisprudence framework alongside comparative insights from the European Union's Corporate Sustainability Due Diligence Directive, this paper evaluates the systemic limitations of transparency-based regulation. The analysis suggests that bridging this statutory gap requires shifting the legal standard from passive reporting to active environmental risk assessment and proactive mitigation. Finally, the article proposes targeted legislative adjustments under the Companies Act 2013, alongside enhanced institutional coordination, to integrate ecological accountability directly into the fiduciary duties of corporate boards. This structural realignment ensures that national digital economic expansion proceeds in harmony with long-term hydrological security, balancing technological advancement with essential public trust obligations.

Keywords: *freshwater management, environmental due diligence, digital infrastructure.*

INTRODUCTION

In modern corporate activity, the profound significance of water is frequently reduced to technical metrics of consumption, effluent discharge, and annual disclosure. This reductionist view becomes particularly dangerous when applied to freshwater, a finite resource upon which human survival, ecological stability, and economic expansion concurrently rely.¹ Corporate access to freshwater can no longer be evaluated merely as a question of commercial utility. The mechanisms through which freshwater is sourced, depleted, and altered by industrial operations raise an existential question of environmental responsibility: can the pursuit of aggressive economic growth remain legally detached from the ecological devastation it leaves in its wake?

India is currently standing at the precipice of this exact crisis. Despite being endowed with significant natural river basins and historical traditions of sustainable water governance, the nation is facing unprecedented hydrological stress. Recent estimates indicate that approximately six hundred million Indian citizens are currently navigating high to extreme water scarcity, a situation exacerbated by the over-extraction of groundwater and shifting climate patterns.²

Simultaneously, India's industrial landscape is expanding at a breakneck pace. This growth is perhaps most visible in the aggressive push for digital sovereignty and the consequent explosion of hyper-scale data centres. While celebrated as engines of technological advancement, these facilities are extraordinarily thirsty. A standard hundred-megawatt digital infrastructure facility consumes approximately two million litres of freshwater every single day solely for thermal management.³ When gigawatt-scale hubs are constructed in regions already grappling with severe municipal water deficits, the collision between unbridled corporate expansion and fundamental ecological limits becomes unavoidable.

¹ David Richard Boyd, *Human rights and the global water crisis: water pollution, water scarcity and water-related disasters* (UN Human Rights, 2021)

² Subhajyoti Das, 'Groundwater Sustainability, Security and Equity: India Today and Tomorrow' (2023) 99(1) *Journal of the Geological Society of India* <<https://doi.org/10.1007/s12594-023-2260-x>> accessed 27 July 2026

³ Dr A Shaji George, 'Data Centers and Water Crisis in India: Why Digital Infrastructure Could Drain Our Wells Dry by 2030' (2025) 3(6) *Partners Universal Innovative Research Publication* <<https://doi.org/10.5281/zenodo.17920097>> accessed 27 July 2026

Over the decades, Indian environmental law has developed a mosaic of mechanisms intended to regulate such harm. The legislative architecture ranges from the foundational pollution controls established in the 1970s to the broader protective measures enacted in the subsequent decade.⁴ More recently, the corporate landscape has been transformed by the introduction of environmental, social, and governance (ESG) reporting mandates. The securities market regulator has systematically elevated reporting requirements, culminating in the BRSR Core framework, which demands the mandatory assurance of specific sustainability metrics, including a corporation's water footprint.⁵

However, the mere existence of regulatory standards and mandatory reporting matrices does not resolve a far more fundamental legal problem: what is a corporation actually required to do *before* and *after* it realises its operations threaten a local water supply? Accurately reporting the millions of litres of water consumed by a server farm, or demonstrating technical compliance with baseline effluent standards, may provide regulators with useful data. Yet, neither of these actions proves that the underlying ecological risk has been meaningfully assessed, mitigated, or resolved.

This critical distinction brings the concept of corporate environmental due diligence to the forefront. Rather than treating freshwater as an infinite commodity whose consumption must simply be tallied on a balance sheet, true due diligence demands active, forward-looking risk management. It requires corporations to investigate the origins of their water supply, analyse the socio-ecological vulnerabilities of that specific geography, anticipate the consequences of their extraction, and implement robust measures to prevent harm.⁶ The significance of such a legal standard lies in forcing corporate environmental responsibility to evolve past the passive production of sustainability brochures and into the realm of substantive accountability.

The central concern of this article is the widening chasm between ESG disclosure and substantive environmental action. By examining India's current environmental and corporate governance frameworks, this piece investigates whether the law adequately forces

⁴ Water (Prevention and Control of Pollution) Act 1974; Environment (Protection) Act 1986

⁵ BRSR Core – Framework for assurance and ESG disclosures for value chain (Securities and Exchange Board of India, 2023)

⁶ OECD Due Diligence Guidance for Responsible Business Conduct (Organisation for Economic Co-operation and Development, 2018)

corporations to move beyond risk reporting toward continuous risk mitigation. Furthermore, by contrasting India's disclosure-heavy approach with emerging global standards, such as those taking root in the European Union,⁷ this article argues that a cohesive, legally binding framework for freshwater due diligence is not merely an idealistic goal, but an absolute necessity. If sustainability commitments are to be more than hollow rhetoric, the law must govern the water risk before the first drop is ever extracted.

THE LIMITATIONS OF COMPLIANCE: INDIA'S FRAGMENTED ENVIRONMENTAL ARCHITECTURE

To understand why corporate environmental disclosure does not automatically translate into ecological preservation, one must examine the statutory bedrock upon which these reporting frameworks operate. In India, corporate water governance is primarily filtered through a command-and-control legislative architecture designed in the late twentieth century. Historically, these statutes were structured to curb overt industrial pollution rather than manage systemic resource depletion. Consequently, the regulatory framework heavily emphasises the qualitative standard of industrial effluents, while providing few mechanisms to govern the absolute volume of freshwater extraction.

The primary legislation governing hydrological resources, the Water (Prevention and Control of Pollution) Act 1974, illustrates this structural asymmetry.⁸ The core regulatory mechanisms within the statute, specifically the statutory prohibitions under Section 24 and the granting of consent orders under Section 25, are triggered predominantly by the introduction of poisonous, noxious, or polluting matter into water bodies or sewers.⁹ This creates a scenario where an enterprise can extract massive volumes of freshwater from a stressed aquifer, utilise it for industrial cooling or manufacturing, and discharge the residual portion in a fully treated, non-polluting state. Under a strict textual interpretation of the 1974 framework, the enterprise is fully compliant. The statute successfully regulates the effluent discharge but remains functionally neutral regarding the initial volume of abstraction.

The subsequent Environment (Protection) Act 1986 provides the Central Government with expansive authority to take all measures deemed necessary to protect and improve the

⁷ Corporate Sustainability Due Diligence 2024

⁸ Water (Prevention and Control of Pollution) Act 1974

⁹ Water (Prevention and Control of Pollution) Act 1974, ss 24 and 25

quality of the environment.¹⁰ However, in administrative practice, its operational focus frequently centres on enforcing point-source emissions standards and waste management protocols. The mechanisms designed to evaluate prospective industrial harm, such as the Environmental Impact Assessment (EIA) process, often function as static compliance checkpoints at the inception of a project rather than continuous evaluations of localised hydrological stress.

Because the statutory framework historically left groundwater abstraction and cumulative depletion largely unaddressed, the higher judiciary has frequently intervened to fill the regulatory void. In *Hinch Lal Tiwari v Kamala Devi*, the Supreme Court affirmed that natural water bodies, tanks, and ponds are essential for maintaining ecological balance and groundwater recharge, holding that the State holds such resources in public trust and cannot lawfully permit their alienation or conversion for private or commercial use.¹¹ This principle builds upon the foundational Public Trust Doctrine articulated in *M.C. Mehta v Kamal Nath*, which established that certain natural resources are common properties dedicated to the public interest and cannot be subjected to unrestricted commercial exploitation.¹² Yet, judicial intervention remains reactive, addressing localised conflicts only after significant depletion or encroachment has already materialised.

Consequently, when modern ESG mandates are superimposed upon this fragmented statutory base, they yield precise data without mandating structural operational changes. The Business Responsibility and Sustainability Reporting (BRSR) framework, introduced by the Securities and Exchange Board of India, requires India's top-listed entities to report quantitative water withdrawal, consumption, and discharge metrics. Under the partially assured BRSR Core framework, these metrics are subjected to mandatory third-party verification. Yet, placing a sophisticated disclosure mandate atop an asymmetrical environmental statute merely produces an accurate accounting of resource use.

Empirical analyses of sustainability reports from India's leading corporate entities validate this statutory loophole. A comprehensive review of water management practices among the top fifteen listed companies reveals a systemic reliance on Zero Liquid Discharge (ZLD)

¹⁰ Environment (Protection) Act 1986

¹¹ *Hinch Lal Tiwari v Kamala Devi & Ors* (2001) 6 SCC 496

¹² *M C Mehta v Kamal Nath & Ors* (1997) 1 SCC 388

technologies.¹³ While ZLD systems effectively treat and recycle effluent discharge, thereby perfectly fulfilling the anti-pollution strictures of the Water Act 1974 and are highly energy-intensive and do not inherently reduce the initial volume of freshwater abstracted from the ground. Consequently, a facility can achieve strict statutory compliance and project a sustainable corporate image while maintaining an unsustainable reliance on stressed aquifers.

The structural incompleteness of the BRSR framework extends beyond its treatment of water extraction. As highlighted in the empirical analysis by Mohanty et al., the current ESG reporting architecture suffers from severe metric omissions that prevent a holistic assessment of corporate ecological impact.¹⁴ While the BRSR Core mandates stringent reporting on greenhouse gas emissions and water usage efficiency, it systematically excludes highly contextual, localised environmental parameters. Crucially, the framework lacks mandatory quantitative disclosures for noise pollution, localised soil degradation, and granular biodiversity tracking. This omission creates a regulatory blind spot. An industrial facility, such as a large-scale manufacturing plant or a digital infrastructure hub, may maintain perfect compliance with the BRSR Core metrics while simultaneously causing severe acoustic disturbance to local communities or degrading adjacent soil quality through non-regulated runoff. Because these parameters are not captured in the mandatory disclosure matrix, they remain functionally invisible to investors, regulators, and ESG rating agencies. By failing to track these localised ecological variables, the disclosure standard artificially narrows the definition of environmental harm, proving once again that perfect ESG compliance does not equate to comprehensive ecological due diligence.

A corporation may report highly optimised water usage metrics, achieving top-tier sustainability ratings, while continuing to extract water from severely stressed hydrological basins. Because the underlying statutes do not systematically restrict extraction where pollution is absent, and the securities regulations only require disclosure rather than operational risk mitigation, the current legal paradigm permits a structural decoupling of

¹³ Praveen Kumar Singh and Sumedha Dhasmana, 'Sustainability Compliance of India Inc: An Examination of Water Management of Leading Indian Companies' (2026) *International Journal of Economic Practices and Theories* <<https://doi.org/10.52783/ijept.540>> accessed 27 July 2026

¹⁴ Atasi Mohanty et al., 'E' of Environmental, Social, and Governance (ESG) in India: reporting, review and future prospects' (2025) 3 *Discover Global Society* 136 <<https://link.springer.com/article/10.1007/s44282-025-00288-0>> accessed 27 July 2026

reporting accuracy from substantive ecological protection. Statutory compliance under the existing framework does not inherently satisfy the broader requirements of environmental due diligence.

This theoretical decoupling has been mathematically quantified in recent jurisprudential literature. By applying a 'Decoupling Index' to Indian corporate filings, researchers found that the implementation of mandatory BRSR assurance caused the Disclosure Quality Score (DQS) to increase by 41.4 per cent. However, the corresponding Substantive Outcomes Score (SOS), which measures actual reductions in ecological harm, remained largely stagnant. The resulting data indicates that the 'Decoupling Gap' between what corporations' report and what they actually mitigate has widened by 72.7 percent. This empirical evidence proves that enhancing the rigour of disclosure mandates, without simultaneously imposing substantive fiduciary duties to reduce extraction, merely produces better-documented depletion.

DATA CENTER PARADOX: WHEN EFFICIENCY MASKS DEPLETION

The structural gap between statutory compliance and substantive environmental due diligence is starkly illustrated by the exponential growth of India's digital infrastructure. As the nation accelerates its transition toward digital sovereignty, data centres have emerged as critical economic assets. However, the physical reality of computation requires massive energy and continuous cooling, creating an immense demand for freshwater.

Data centres consume water directly through on-site thermal management, such as evaporative cooling towers and chilled water systems and indirectly through the water-intensive generation of electricity in conventional thermal power plants.¹⁵ A standard 100-megawatt enterprise facility can require massive cubic volumes of freshwater daily to maintain optimal operating temperatures for server infrastructure.¹⁶ At the scale of gigawatt-class artificial intelligence clusters and hyperscale developments, cumulative water requirements can rival the domestic consumption of entire municipal districts.

¹⁵ David Mytton, 'Data centre water consumption' (2021) 4 npj Clean Water <<https://doi.org/10.1038/s41545-021-00101-w>> accessed 27 July 2026

¹⁶ George (n 3)

The Disclosure Metric (What is Reported)	The Due Diligence Gap (What is Obscured)
High Technical Efficiency: Facility achieves low Water Usage Effectiveness (WUE) and Power Usage Effectiveness (PUE) ratios.	Ecological Blindspot: The metric measures internal efficiency, not external carrying capacity.
ESG Compliance: Corporation accurately reports water metrics under BRSR Core, achieving a 'Green' or highly-rated sustainability status.	Cumulative Depletion: Facility is sited over a critical or over-exploited aquifer, generating severe local hydrological stress despite its internal efficiency.

This dynamic creates what can be termed the 'Data Centre Paradox.' Under the BRSR framework, an operator accurately reports its water consumption and efficiency gains, satisfying disclosure requirements and securing positive ESG evaluations. However, because the reporting metric measures efficiency rather than contextual sustainability, the disclosure obscures the facility's contribution to declining water tables in surrounding communities.

From a jurisprudential perspective, this operational reality underscores a fundamental failure of legal balance. In his theory of sociological jurisprudence, Roscoe Pound conceived of the law as an instrument of 'social engineering,' a mechanism for ordering human relations and balancing competing claims with the least friction and waste.¹⁷ Pound specifically classified these claims into individual, public, and social interests, explicitly identifying the 'social interest in the conservation of social resources' as a vital legal category encompassing the preservation of natural wealth.

When applied to the digital infrastructure sector, the existing Indian legal framework fails Pound's test of social engineering. The law effectively privileges the individual and commercial interest in rapid technological expansion while neglecting the social interest in

¹⁷ Roscoe Pound, 'A Survey of Social Interests' in A Javier Trevino (ed), *The Sociology of Law* (1st edn, Routledge, 2008)

conserving finite freshwater supplies. The regulatory regime enables corporations to externalise the ecological costs of cooling onto local hydrological systems, creating systemic friction with the basic survival needs of adjacent populations.

The Indian judiciary has repeatedly recognised that industrial planning must not proceed in disregard of ecological carrying capacity. In *Karnataka Industrial Areas Development Board v C. Kenchappa*, the Supreme Court held that the State must integrate environmental considerations into industrial land acquisition, ruling that developmental authorities have an affirmative duty to preserve natural water bodies before establishing industrial layouts.¹⁸ Furthermore, in *Hanuman Laxman Aroskar v Union of India*, the Supreme Court reiterated that Environmental Impact Assessments cannot be reduced to procedural formalities, holding that comprehensive baseline environmental data and genuine public participation are mandatory prerequisites for legitimate environmental clearance.¹⁹

Applying these binding precedents to the digital infrastructure domain reveals the insufficiency of current practices. Siting a water-intensive data facility in an area identified by hydrological surveys as overexploited conflicts with the principles of precautionary planning and sustainable resource allocation. An accurate ESG disclosure cannot cure the absence of prior, context-specific due diligence regarding whether an aquifer can sustain long-term operational withdrawal without compromising community access. Meaningful corporate governance requires reconciling technological development with the social interest in water security before operations commence.

DEFINING THE DUE DILIGENCE STANDARD: FROM REPORTING TO FIDUCIARY MITIGATION

If the fundamental limitation of India's current environmental architecture is its reliance on passive disclosure, the necessary legal evolution requires transitioning toward substantive environmental due diligence. Unlike transparency frameworks, which primarily govern the accuracy of corporate reporting, environmental due diligence is a continuous, forward-looking mechanism of risk management. The Organisation for Economic Co-operation and Development (OECD) defines this standard as an ongoing process wherein enterprises

¹⁸ *Karnataka Industrial Areas Development Board v C Kenchappa & Ors* (2006) 6 SCC 371

¹⁹ *Hanuman Laxman Aroskar v Union of India* (2019) 15 SCC 401

identify, assess, mitigate, and remediate actual and potential adverse impacts associated with their operations and broader value chains.

To move beyond the passive collection of ESG metrics, a legally robust framework of environmental due diligence must incorporate four core structural pillars. First, enterprises must conduct continuous impact identification and risk assessment, mapping out how operational activities, such as heavy industrial water abstraction, interact with local hydrological baselines and water-stressed aquifers. Second, the standard requires proactive prevention and mitigation, mandating that corporations adjust their operational designs or halt high-risk extractions before irreversible ecological damage occurs. Third, due diligence mandates meaningful stakeholder engagement and transparency, ensuring that local communities, whose survival depends on adjacent water tables, are consulted and informed prior to project approval. Finally, the framework demands remediation and accountability, requiring enterprises to bear the legal and financial responsibility for restoring degraded ecosystems if adverse impacts materialise. Integrating these essentials transforms due diligence from a bureaucratic reporting checklist into an enforceable operational mandate.

To understand how this standard operates in practice, it is highly instructive to contrast India's disclosure-centric model with the recently enacted European Union Corporate Sustainability Due Diligence Directive (CSDDD). While India's BRSR Core framework mandates the independent assurance of specific environmental data points, the EU CSDDD fundamentally alters the nature of corporate liability.²⁰ Under the European framework, corporations are legally compelled to integrate due diligence into their core policies and take appropriate measures to prevent, or adequately mitigate, potential adverse environmental impacts before they materialise.

The Mechanics of Mandatory Mitigation: Lessons from the CSDDD: A granular examination of the EU directive reveals specific operational mechanisms that India's regulatory architecture currently lacks. Under Article 6 and Article 7 of the CSDDD, corporations are required to formulate and implement a comprehensive 'climate transition plan,' actively identifying operational hotspots where resource extraction creates severe environmental degradation. Crucially, Article 10 imposes an obligation to adopt corrective

²⁰ Corporate Sustainability Due Diligence 2024

action plans when adverse impacts are identified, requiring companies to neutralise the harm or adapt their industrial processes, such as shifting from potable groundwater extraction to closed-loop wastewater cooling in water-stressed regions.

Furthermore, the CSDDD does not treat environmental risk as an isolated compliance metric; it extends accountability across the entire 'chain of activities,' compelling parent companies to oversee the ecological footprint of their supply chains and subsidiaries. The directive also introduces robust provisions for civil liability under Article 29, enabling affected communities and stakeholders to seek full judicial compensation if a corporation fails to prevent or mitigate foreseeable environmental harm.²¹ Applying this standard to the Indian freshwater context would mean that a data centre operator could no longer shield itself behind an accurate BRSR disclosure metric if it negligently sited a water-intensive facility in an overexploited aquifer. The legal obligation would shift decisively from accurately reporting resource depletion to actively mitigating the risk prior to project deployment.

However, the implementation of such a robust due diligence standard cannot be relegated solely to a corporate compliance department. Meaningful environmental risk mitigation requires integration at the highest levels of corporate governance. Recent empirical research analysing the BRSR filings of India's top-listed firms confirms this structural dependency, demonstrating that the quality and depth of corporate disclosures are directly correlated with strong top-management commitment and independent board-level oversight.²²

This empirical finding carries profound implications for the design of India's environmental architecture. If engaged board-level oversight and executive commitment are statistically required simply to achieve high-quality *reporting*, then implementing a legally binding system of substantive *due diligence* will necessitate an even deeper transformation of corporate governance. Environmental risk assessment must be elevated from an operational afterthought to a primary fiduciary duty. When corporate leaders are statutorily required to treat localised hydrological stress as a material operational risk, the calculus of infrastructure

²¹ Corporate Sustainability Due Diligence 2024, art 29

²² Ahmad Mohd Khalid and Pankaj S Rawat, 'Corporate Environmental Disclosures and Role of Top Management: Evidence Based on the Business Responsibility and Sustainability Reporting in India' (2025) 32(4) Corporate Social Responsibility and Environmental Management <<https://doi.org/10.1002/csr.3205>> accessed 27 July 2026

planning fundamentally changes, ensuring that digital expansion does not compromise regional water security.

THE WAY FORWARD: ARCHITECTING SUBSTANTIVE ACCOUNTABILITY

To bridge the chasm between passive environmental disclosure and substantive ecological preservation, India's fragmented corporate and environmental frameworks must be structurally consolidated. The most effective mechanism for this integration is the amendment of the Companies Act 2013 to include a dedicated chapter on sustainable corporate governance, formally tethering ESG performance obligations to primary legislation. Furthermore, the fiduciary duties of corporate directors are codified under Section 166 of the Act and must be explicitly recalibrated. Rather than serving as an aspirational directive to protect the environment, the statute must impose a binding operational duty on corporate boards to assess and mitigate material ecological risks, culminating in a mandatory Directors' ESG Statement within the annual board report.

The enforcement of these elevated fiduciary duties requires corresponding institutional evolution. The establishment of a Unified ESG Oversight Authority, operating across the overlapping jurisdictions of the securities regulator, the corporate affairs ministry, and state pollution control boards, would provide the necessary administrative capacity to adjudicate ecological misrepresentations and enforce due diligence standards. To ensure genuine deterrence, penalties for substantive due diligence failures must transcend nominal fines and be indexed to a percentage of a corporation's annual turnover, thereby aligning India's enforcement mechanisms with emerging global frameworks such as the European Union's sustainability directives.²³

Translating these overarching statutory principles into the specific context of digital infrastructure requires stringent, sector-specific operational safeguards. Regulatory approvals for hyper-scale data centres must mandate the utilisation of alternative hydrological sources. Infrastructure developers should be legally restricted from abstracting potable groundwater or tapping into stressed municipal supplies, and instead be required to utilise treated municipal wastewater, seawater cooling infrastructure, or advanced closed-loop thermal management systems. Furthermore, site selection must be governed by

²³ Corporate Sustainability Due Diligence 2024

strategic geographic planning, explicitly prohibiting water-intensive infrastructure in critically depleted aquifers while incentivising development in regions possessing robust ecological carrying capacity and natural atmospheric cooling advantages.

To guarantee continuous accountability, the reporting of Water Usage Effectiveness (WUE) must evolve from a voluntary sustainability metric into a standardised, transparent regulatory requirement. The deployment of large-scale computational facilities should also be strictly conditional upon the execution of Community Benefit Agreements. These legally binding contracts would obligate infrastructure developers to guarantee local water security, invest in watershed restoration, and remain subject to phased implementation triggers that automatically halt commercial expansion if local aquifers decline beyond established scientific baselines.

Ultimately, this regulatory evolution aligns perfectly with India's historical and philosophical paradigms of environmental stewardship. Transitioning from an extractive, consumption-driven model toward a framework of ecological trusteeship requires recognising natural resources not merely as expendable economic inputs, but as vital community assets requiring rigorous legal protection.²⁴ By embedding substantive due diligence into corporate law and mandating stringent operational safeguards, India can successfully architect a globally competitive digital economy that does not systematically compromise its fundamental hydrological security.

CONCLUSION

The transition of corporate environmental governance from voluntary philanthropy to mandatory disclosure marks a significant regulatory milestone in India. However, as this article has demonstrated, transparency alone is an insufficient safeguard against the systemic depletion of natural resources. The current legal architecture, anchored by the pollution-centric Water (Prevention and Control of Pollution) Act 1974 and the disclosure-centric Business Responsibility and Sustainability Reporting (BRSR) framework, permits a dangerous decoupling of reporting accuracy from substantive ecological protection. Corporations can currently achieve statutory compliance and top-tier ESG ratings while

²⁴ *Hinch Lal Tiwari v Kamala Devi & Ors* (2001) 6 SCC 496

simultaneously draining critical hydrological basins, perfectly illustrating the limitations of a passive regulatory regime.

The rapid proliferation of digital infrastructure and the 'Data Centre Paradox' serve as the ultimate stress test for this fragmented framework. When highly efficient, water-intensive computational facilities are sited in overexploited aquifers, they reveal the fatal flaw in measuring environmental sustainability solely through internal efficiency metrics like PUE and WUE. Without a mandate to assess the external carrying capacity of the local environment, the law fails in its fundamental duty of social engineering, sacrificing the social interest of water security for the commercial interest of digital expansion.

To resolve this asymmetry, India must transcend the illusion of compliance and architect a framework of substantive environmental due diligence. Drawing upon the proactive mitigation principles of the European Union's Corporate Sustainability Due Diligence Directive and the Indian jurisprudence of the Public Trust Doctrine, the law must elevate environmental risk assessment from an operational reporting metric to a binding fiduciary duty.²⁵ By amending the Companies Act 2013 to include explicit environmental duties, establishing unified institutional oversight, and mandating strategic resource zoning, the state can legally compel corporate boards to act as ecological trustees.²⁶ Ultimately, the true measure of corporate environmental accountability is not how accurately a corporation reports the water it has extracted, but the due diligence it exercises before the first drop is ever drawn.

²⁵ Corporate Sustainability Due Diligence 2024; *Hinch Lal Tiwari v Kamala Devi & Ors* (2001) 6 SCC 496

²⁶ Companies Act 2013, s 166