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## INTRODUCTION

The Air (Prevention and Control of Pollution) Act, 1981, has an important constitutional implications with an international background. The Act drew its inspiration from the Proclamation adopted by the United Nations Conference on the Human Environment held at Stockholm, from 5<sup>th</sup> to 16<sup>th</sup> June, 1972, in which our country was also represented.

The Preamble to the Air (Prevention and Control of Pollution) Act, 1981, contains a formal presentation of the fact and includes that, the decision so taken were "to take appropriate steps for the preservation of the natural resources and control of air pollution". The Preamble also records that "it is considered necessary to implement the decision aforesaid, in so far as they relate to the preservation of the quality of air and control of air pollution."

The Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), is a specialized legislative measure, meant to tackle one facet of environmental pollution.

## OBJECTIVES

- A] To provide for the prevention, control and abatement of air pollution.
- B] To provide for the establishment of Central and State Boards, with a view to implement the aforesaid purpose
- C] To provide for conferring on such Boards, powers and assigning to such Boards, functions relating thereto; and
- D] For matters connected therewith.

## SECTION-2: DEFINITIONS

- (a) "air pollutant" means, any solid, liquid or gaseous substance including noise present in the atmosphere in such concentrations as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.
- (b) "air pollution" means, the presence in the atmosphere of any air pollutant.

- (c) "approved appliance" means any equipment or gadget used for the burning of any combustible material or for generating or consuming any fume, gas or particulate matter and approved by the State Board for the purposes of this Act.
- (d) "approved fuel" means any fuel approved by the State Board for the purposes of this Act.
- (e) "automobile" means any vehicle powered either by internal combustion engine or by any method of generation power to drive such vehicle by burning fuel.
- (f) "board" means the "Central Board" or a State Board.
- (g) "Central Board" means, the [Central Pollution Control Board] constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974)
- (h) "chimney" includes any structure with an opening or outlet from or through which any air pollutant may be emitted.

- (i) "control equipment" means, any apparatus, device, equipment or system to control the quality and manner of emission of any air pollution, and includes any device used for securing the efficient operation of any industrial plant.
- (j) "emission" means, any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet.
- (k) "industrial plant" means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere.
- (l) "member" means, a member of the Central Board or a State Board, as the case may be, and thereof includes the Chairman.
- (m) "occupier" means, in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises, and includes, in relation to any substance, the person in possession of the substance.
- (n) "prescribed" means, prescribed by rules made under this Act by the Central Government or as the case may be, the State Government.

## CONSTITUTION OF THE BOARDS

Section 3 and Section 4 of this Act state that the appropriate powers and functions shall be given to the Central Board and the State Boards respectively and they shall exercise these powers and not go outside the ambit of these powers.

### Constitution of Central Pollution Control Board

Section 3 of the Water (Prevention and Control of pollution) Act, 1974 explains the constitution of the Central Pollution Control Board -

→ It shall have a full-time Chairman, having special knowledge and practical expertise in matters of environmental protection and having knowledge and experience in administering institutions dealing with such matters. The Chairman will be nominated by the Central Government.

→ It shall have a full-time Secretary, who shall have the qualifications, knowledge and experience of scientific, engineering and management aspects of environmental protection. The Secretary shall be appointed by the Central Government.

- It shall have not more than five officials, nominated by the central Government to represent that Government.
- It shall not have more than five members nominated by the Central Government, chosen from among the members of the State Boards.
- It shall not have more than three officials who represent the interests of the fishery, agriculture, or any other industry or trade, which the Government may think fit to be represented.
- It shall have 2 persons from the companies or corporations, owned, managed or controlled by the Central Government, nominated by that Government.

### Constitution of State Pollution Control Board

- A person, nominated by the State Government, who has special knowledge and practical experience of dealing with issues related to environmental protection, shall serve as the chairman of the State Pollution Control Board. This chairman may be full-time or part-time. This decision will be left to discretion of the State Government.

- The Board shall further constitute of not more than five officials, nominated by the State Government, to serve as representatives of that Government.
- Not more than three officials nominated by the State Government, who are believed to be representing the interests of the industries of fishery, agriculture or any other industry or trade which the Central Government thinks ought to be represented.
- Not more than five people from the local authorities, nominated by the state Government.
- Two persons from companies or corporations owned, managed or controlled by the State Government, and are nominated by that State Government.

## FUNCTIONS OF THE POLLUTION CONTROL BOARDS

### Functions of the Central Board

Section 16 lays down the functions of the Central Board -

- The Board shall make efforts for the prevention, abatement and control of air pollution in the country and may advise the Central Government on the same.
- It shall plan and implement a nationwide programme for the prevention, control and abatement of air pollution.
- It shall coordinate the activities of the States and shall resolve the disputes that arise between them.
- It shall provide technical assistance to the Boards, carry out investigations and research relating to air pollution.
- It shall plan and implement training programmes for the persons to be involved in those programmes.

- It shall help combat air pollution through a mass media programme.
- It shall collect, compile and publish statistical data relating to air pollution and shall also prepare manuals, codes or guides relating to measures to combat air pollution.
- It shall lay down standards for the quality of air and shall perform other functions as prescribed.
- The Board shall also set up a laboratory or multiple laboratories to enable the Board to perform its functions effectively.

### Functions of the State Board.

Section 17 lays down the functions to be performed by the State Boards -

- The state Board shall plan and implement comprehensive programmes for prevention, control or abatement of air pollution. It shall also advise the State Government on such matters.

- It shall collect and disseminate information regarding air pollution. It shall organise training and mass awareness programmes regarding air pollution control, prevention and abatement.
- It shall inspect, at reasonable times, any control equipment, industrial plant or manufacturing process and give orders to the people in charge to further the purposes of combating air pollution.
- It shall inspect and assess the air quality at designated air pollution control areas as it may think necessary.
- It shall lay down standards for the emission of air pollutants into the atmosphere from automobiles or industries or any other pollutants from any source. However, a ship or aircraft cannot come into the ambit of a source.
- The Boards shall also set up labs in their states, to enable the State Board to perform its functions effectively.

## POWERS OF BOARDS

- Section 18 : Power to give directions
- Section 19 : Power to declare air pollution areas
- Section 20 : Power to give restrictions for ensuring standards for emission from automobiles.
- Section 21 : Restrictions on use of certain industrial plants.
- Section 22 : Persons carrying on industry, etc, not allowed emission of air pollutants in excess of the standard laid down by State Board.
- Section 23 : Furnishing of information to State Board and other agencies in certain cases.
- Section 24 : Power of entry and inspection
- Section 25 : Power to obtain information.
- Section 26 : Power to take samples from air or emission and procedure followed.

## PENALTIES

- Under Section 37, whoever fails to comply with the provisions of section 21, 22 and the directions issued under Section 31A, can be sentenced to imprisonment for a term of one year and six months.
- This sentence can be extended to six years and with fine, if the requisite compliances under the aforesaid sections are still not carried out, with an additional fine of five thousands rupees every day.
- Section 39, any order or direction which has been flouted, and for which there is no punishment anywhere in the Act, shall be punishable with
  - 3 months imprisonment or
  - fine of three thousands rupees or
  - both.
  - If failure continues, additional five thousands every day.
- Section 40, of this Act talks about offenses by companies.
- Section 41, talks about offenses committed by government departments.