



FACULTY OF JURIDICAL SCIENCES

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Lecture-15



LECTURE 15: Introduction to The Air(Prevention and Control of Pollution) Act,1981

Introduction

This Act was passed by the Indian Parliament in the exercise of its powers conferred under Article 253 of the Constitution. The aims and objects of the Act provide: Whereas decisions were taken at the United Nations Conference on Human Environment held in Stockholm in June 1972, in which India participated, to take appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of the quality of air and control of air pollution. And whereas it is considered necessary to implement the decisions aforesaid in so far as they relate to the preservation of the quality of air and control of air pollution.

Aims of the Act

The Act aims to achieve the following goals:

1. Provide for the prevention, control and abatement of air pollution.
2. Establishment of Boards with a view to carry out the above mentioned purpose.
3. Confer on and assign to such Boards powers and functions relating to prevention, control and abatement of air pollution and
4. Lay down the standards to maintain the quality of air.

Definition

The term "air pollutant" means any solid, liquid or gaseous substance [(including noise)] present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment and "air pollution" means the presence in the atmosphere of any air pollutant.

Thus, air pollutants include smoke, soot, heat, fly ash, suspended particulate matter (SPM), noise, radioactive substances, vibrations¹, etc. A small quantity of pollutants usually does not affect human health adversely. Such quantity or volume may be described as permissible/tolerable limit as nature also has its self-purification mechanism. But if the volume or the quantity of the pollutants is such which is deleterious/ injurious to the health of human beings, flora, fauna, etc., it becomes environmental pollution.

In *M.C. Mehta v Union of India (Taj Trapezium case)*, the court observed that emission of sulphur dioxide from coke/coal using industries was causing acid rain (sulphur dioxide when combined with moisture forms sulphuric acid called acid rain) which had a corroding effect on the gleaming white marble of the Taj Mahal. Therefore, 292 industries were ordered either to close down or to switch to using gas. Courts on various occasions have observed: pollution being wrongful contamination of the environment which causes material injury to the right of an individual, noise can well be regarded as a pollutant, because it contaminates the environment, causes nuisance and affects the health of a person.

It has also been observed that the fireworks also release a deadly concoction of fumes into the air causing extreme air pollution during Diwali and festival. As per one study the fireworks emit fine particles of various elements like copper, barium, strontium, magnesium and potassium which cause air pollution. As a result of such pollution the Capital was “smogged” into an environmental emergency of unseen proportions.

Composition

The Central Board shall consist of the following members, namely

- (a) a full-time chairman, being a person having special knowledge or practical experience in respect of matters relating to environmental protection or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;
- (b) such number of officials, not exceeding five, to be nominated by the Central Government to represent that Government;
- (c) such number of persons, not exceeding five, to be nominated by the Central Government, from amongst the members of the State Boards, of whom not exceeding two shall be from those referred to in clause (c) of sub-section (2) of section 4;
- (d) such number of non-officials, not exceeding three, to be nominated by the Central Government, to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the Central Government, ought to be represented;
- (e) Two persons to represent the companies or corporations owned, controlled or managed by the Central Government, to be nominated by that Government;

Constitution of State Board

(1) The State Government shall, with effect from such date as it may, by notification in the Official Gazette, appoint, constitute a State Pollution Control Board, under such name as may be specified in the notification, to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

(2) A State Board shall consist of the following members, namely:—

(a) A chairman, being a person having special knowledge or practical experience in respect of matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the State Government: Provided that the chairman may be either whole-time or part-time as the State Government may think fit;

(b) Such number of officials, not exceeding five, to be nominated by the State Government to represent that Government;

(c) such number of persons, not exceeding five, to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

(d) such number of non-officials, not exceeding three, to be nominated by the State Government to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the State Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that Government;

(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the State Government.

(3) Every State Board shall be a body corporate with the name specified by the State Government in the notification under sub-section (1), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the said name, sue or be sued.

(4) Notwithstanding anything contained in this section, no State Board shall be constituted for a Union territory and in relation to a Union territory, the Central Board shall exercise the powers and perform the functions of a State Board for that Union territory:

Provided that in relation to any Union territory the Central Board may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.