

Unit-IV

THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

An Act to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purposes, of Boards, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

(1) This Act may be called the Air (Prevention and Control of Pollution) Act, 1981.

(2) It extends to the whole of India.

Definition: "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;

CENTRAL AND STATE BOARDS FOR THE PREVENTION AND CONTROL OF AIR POLLUTION

Central Board for the Prevention and Control of Air Pollution.

The Central Board for the Prevention and Control of Water Pollution constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), shall, without prejudice to the exercise and performance of its powers and functions under this Act, exercise the powers and perform the functions of the Central Board for the Prevention and Control of Air Pollution under this Act.

State Boards for the Prevention and Control of Water Pollution to be, State Boards for the Prevention and Control of Air Pollution.

In any State in which the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), is in force and the State Government has constituted for that State a State Board for the Prevention and Control of Water Pollution under section 4 of that Act, such State Board shall be deemed to be the State Board for the Prevention and Control of air Pollution and accordingly that State Board for the Prevention and Control of Water Pollution shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the State Board for the Prevention and Control of Air Pollution under this Act.

Constitution of State Boards.

A State Board constituted under this Act shall consist of the following members, namely:-

- (a) A Chairman, being a person, having a person having special knowledge or practical experience in respect of matters relating to environmental protection, to be nominated by the State Government.
- (b) Such number of officials, not exceeding five, as the State Government may think fit, to be nominated by the State Government to represent that government.
- (c) Such number of persons, not exceeding five, as the State Government may think fit, 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, as the State Government may think fit, to be nominated by the State Government to represent the interest of agriculture, fishery or industry or trade or labour or any other interest, which in the opinion of that 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 having such qualifications knowledge and experience of scientific, engineering or management aspects of pollution control as may be prescribed, to be appointed by the State Governments

Terms and conditions of service of members

Save as otherwise provided by or under this Act, a member of a State Board constituted under this Act, other than the member-secretary, shall hold office for a term of three years from the date on which his nomination is notified in the Official Gazette:

POWERS AND FUNCTIONS OF BOARDS

16. Functions of Central Board.

The main functions of the Central Board shall be to improve the quality of air and to prevent, control or abate air pollution in the country.

(2) The Central Board may-

- (a) advise the Central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution;
- (b) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of air pollution;
- (c) co-ordinate the activities of the State and resolve disputes among them;

(d) provide technical assistance and guidance to the State Boards.

The Central Board may establish or recognise a laboratory or laboratories to enable the Central Board to perform its functions efficiently.

The Central Board may-

(a) Delegate any of its functions under this Act generally or specially to any of the committees appointed by it;

(b) Do such other things and perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

Functions of State Boards.

(a) To plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof,-

(b) To advise the State Government on any matter concerning the prevention, control or abatement of air pollution;

(c) To collect and disseminate information relating to air pollution;

(d) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organise mass-education programme relating thereto;

(e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution;

(f) to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;

(g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft:

(h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;

A State Board may establish or recognize a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently.

PREVENTION AND CONTROL OF AIR POLLUTION

Power to declare air pollution control areas

The State Government may, after consultation with the State Board, by notification in the Official Gazette declare in such manner as may be prescribed, any area or areas within the State as air pollution control area or areas for the purposes of this Act.

Power to give instructions for ensuring standards for emission from automobiles.

The State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act, 1939 (Act 4 of 1939), and such authority shall, notwithstanding anything contained in that Act or the rules made there under be bound to comply with such instructions.

Restrictions on use of certain industrial plants.

Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area.

Provided that a person operating any industrial plant in any air pollution control area, immediately before the commencement of the Air (Prevention and Control of Pollution) Amendment Act, 1987, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent within the said period of three months, till the disposal of such application.

Power of Board to make application to court for restraining person from causing air pollution.

Where it is apprehended by a Board that emission of any air pollutant, in excess of the standards laid down by the State Board is likely to occur by reason of any person operating an industrial plant or otherwise in any air pollution control area, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class for restraining such person from emitting such air pollutant. The court may make such order as it deems fit. The court makes an order restraining any person from discharging or causing or permitting to be discharged the emission of any air pollutant, it may, in that order,-

- (a) direct such person to desist from taking such action as is likely to cause emission;

(b) authorise the Board, if the direction is not complied with by the person to whom such direction is issued, to implement the direction in such manner as may be specified by the court.

Power of entry and inspection.

Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place, for the purpose of examining and testing any control equipment, industrial plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act and for seizing any such control equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made there under.

Power to obtain information.

For the purposes of carrying out the functions entrusted to it, the State Board or any officer empowered by it may call for any information (including information regarding the types of air pollutants emitted into the atmosphere and the level of the emission of such air pollutants) from the occupier or any other person carrying on any industry or operating any control equipment or industrial plant and for the purpose of verifying the correctness of such information.

Power to take samples of air or emission and procedure to be followed in connection therewith.

A State Board or any officer empowered by it in this behalf shall have power to take, for the purpose of analysis, samples of air or emission from any chimney, flue or duct or any other outlet in such manner as may be prescribed.

When a sample of emission is taken for analysis, the person taking the sample shall-

- (a) serve on the occupier or his agent, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;
- (b) in the presence of the occupier or his agent, collect a sample of emission for analysis;
- (c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;
- (d) send, without delay, the container to the laboratory established or recognised by the State Board

When a sample of emission is taken for analysis and the person taking the sample serves on the occupier or his agent, a notice then,-

(a) in a case where the occupier or his agent willfully absents himself, the person taking the sample shall collect the sample of emission for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent is present at the time of taking the sample but refuses to sign the marked and sealed container or containers of the sample of emission as required, the marked and sealed container or containers shall be signed by the person taking the sample.

State Air Laboratory

(1) The State Government may, by notification in the Official Gazette,-

(a) establish one or more State Air Laboratories; or

(b) specify one or more laboratories or institutes as State Air Laboratories to carry out the functions entrusted to the State Air Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing-

(a) the functions of the State Air Laboratory;

(b) the procedure for the submission to the said Laboratory of samples of air or emission for analysis or tests, the form of the Laboratory's report thereon and the fees payable in respect of such report;

Analysis.

The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be government analysts for the purpose of analysis of samples of air or emission sent for analysis to any laboratory

PENALTIES AND PROCEDURE

Whoever fails to comply with the provisions of this act shall, in respect of each such failure, be punishable with imprisonment for a terms which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

If the failure continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

Offences by companies.

Every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

Notwithstanding anything contained in this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by Government Departments.

Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards Powers and functions relating thereto and for matters connected therewith.

This Act may be called the Water (Prevention and Control of s Pollution) Act, 1974.

It applies in the first instance to the whole of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf.

THE CENTRAL & STATE BOARDS FOR PREVENTION & CONTROL OF WATER POLLUTION

CONSTITUTION OF CENTRAL BOARD

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

The Central Board shall consist of the following members, namely:-

- (a) A full-time chairman, being a person having special knowledge or practical experience to be nominated by the Central Government.
- (b) Number of officials, not exceeding five to be nominated by the Central Government to represent that Government.
- (c) Number of persons, not exceeding five to be nominated by the Central Government, from amongst the members of the State Boards.
- (d) 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.
- (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 Central Government.

CONSTITUTION OF STATE BOARDS

(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 the 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 to be nominated by the State Government.
- (b) Number of officials, not exceeding five, to be nominated by the State Government to represent that Government;
- (c) 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) Number of non-officials, not exceeding three to be nominated by the State Government to represent the interest 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.

TERMS AND CONDITIONS OF SERVICE OF MEMBERS

Save as otherwise provided by or under this Act, a member of a Board, other than, a member-secretary, shall hold office for a term of three years from the date of this nomination:

CONSTITUTION OF JOINT BOARD

(1) Notwithstanding anything contained in this Act, an agreement may be entered into--

(a) By two or more Governments of neighbouring States, or

(b) By the Central Government (in respect of one or more Union territories) and one or more Government of State Government contiguous to such Union territory or Union territories.

(2) An agreement under this section may --

(a) Provide, for the distribution between the participating States and the Central Government of the expenditure in connection with the Joint Board;

(b) Determine, which of the participating State Governments shall exercise and perform the several powers and functions of the State Government under this Act

(c) Make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published, in the Official Gazette of the participating States and in the Official Gazette of participating Union territory or Union territories.

COMPOSITION OF JOINT BOARDS

(1) A Joint Board constituted in pursuance of an agreement entered shall consist of the following members, namely:--

- (a) A full-time chairman, being a person having special knowledge or practical experience to be nominated by the Central Government;
- (b) Two officials from each of the participating States to be nominated by the concerned participating State Government to represent that Government;
- (c) One person to be nominated by each of the participating State Governments from amongst the members of the local authorities functioning within the State concerned;
- (d) One non-official to be nominated by each of the participating State Governments to represent the interests or agriculture, fishery or industry or trade in the State concerned or any other interest which, in the opinion of the participating State Government, is to be represented;
- (e) Two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State 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 Central Government.

POWER OF STATE GOVERNMENT TO RESTRICT THE APPLICATION OF THE ACT TO CERTAIN AREAS

- (1) Notwithstanding contained in this Act, if the State Government, after consultation with, or on the recommendation of, the State Board, is of opinion that the provisions of this Act need not apply to the entire State, it may, by notification in the Official Gazette, restrict the application of this Act to such area or areas as may be declared therein as water pollution, prevention and control area or areas and thereupon the provisions of this Act shall apply only to such area or areas.
- (2) Each water pollution, prevention and control area may be declared either by reference to a map
- (3) The State Government may, by notification in the Official Gazette-
 - (a) alter any water pollution prevention and control area whether by way of extension or reduction; or
 - (b) define a new water pollution, prevention and control area

POWER TO OBTAIN INFORMATION

- 1) the State Board or any officer empowered by it in that behalf, may make surveys of any area and gauge and keep records of the flow or volume and other characteristics of an

stream or well in such area, and may take steps for the measurement and recording of the rainfall in such area

2.) a State Board may, with a view to preventing or controlling pollution of water, give directions requiring any person in charge of any establishment where any industry, operation or process, or treatment and disposal system is carried on, to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system

POWER TO TAKE SAMPLES OF EFFLUENTS AND PROCEDURE TO BE FOLLOWED IN CONNECTION THEREWITH

- (1) A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well.
- (2) when a sample of any sewage or trade effluent is taken for analysis, the person taking the sample shall --
 - (a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place or any agent of such occupier, a notice, then and there in such form as may be prescribed of his intention to have it so analysed;
 - (b) The sample is to be placed in a container which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;
 - (d) send the container forthwith,--
 - (i) to the laboratory established or recognised by the Central Board
 - (ii) in any other case, to the laboratory established or recognised by the State Board

When a sample of any sewage or trade effluent is taken for analysis, the person taking the sample serves on the occupier or his agent, a notice and the occupier or his agent willfully absents himself, then --

- (a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory and such person shall inform the Government analyst appointed in writing about the willful absence of the occupier or his agent; and
- (b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent

REPORTS OF RESULTS OF ANALYSIS ON SAMPLES TAKEN

- (1) Where a sample of any sewage or trade effluent has been sent for analysis to the laboratory established or recognized by the Central Board or, as the case may be, the State Board, the concerned Board analyst appointed
- (2) On receipt of the report, one copy of the report shall be sent by the Central Board or the State Board, another copy shall be preserved for production before the court in case any legal proceedings

POWER OF ENTRY AND INSPECTION

- (1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place--
 - (a) for the purpose of performing any of the functions of the Board entrusted to him;
 - (b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made there under of an notice, order, direction or authorisation served, made, given, or granted under this Act is being or has been complied with;
 - (c) for the purpose of examining any plant, record, register, document or any other material object or for conducting a search of any place

PROHIBITION ON USE OF STREAM OR WELL FOR DISPOSAL OF POLLUTING MATTER, ETC.

- (1) Subject to the provisions of this section --
 - (a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or
 - (b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream.

PENALTIES AND PROCEDURE

(1) Whoever fails to comply with any direction given in this act as may be specified in the direction shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) Whoever fails to comply with any order issued or any direction issued by a court shall, in respect of each such failure and on conviction, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(3) If the failure continues beyond a period of one year after the date of conviction, the offender shall, on conviction, be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

