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Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



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AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

AUTHOR – NIKALANK YADAV, STUDENT AT AMITY LAW SCHOOL, AMITY UNIVERSITY, MUMBAI

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CHAPTER – 1

INTRODUCTION

Air is the natural bounty to all living things. It is the most vital component of life. There is no living being on the planet earth which can survive without air. Air is a blend of gases which constitutes earth's atmosphere. The natural or fresh air is composed of 20.95% oxygen, 78% of nitrogen, 0.03% of carbon dioxide, 0.93% organ and trace amounts of Ozone, hydrogen sulfide sulphur-dioxide and carbon-monoxide.²²⁵ If this ratio is disturbed due to the presence of any foreign substance in it, the air cannot be termed as fresh air. It would rather be polluted or contaminated air, which is not suitable for use. To maintain the quality of air and management of air pollution, the Indian Parliament passed the Air (Prevention and Control of Pollution) Act, 1981.

GRASP - EDUCATE - EVOLVE

²²⁵ National Geographic, 'Air' (National Geographic, 18 February 2025, 10:23 AM) <https://education.nationalgeographic.org/resource/air/> accessed 22 March 2025

The Air (Prevention and Control of Pollution) Act 1981 was passed by exercising the powers under Article 253²²⁶ to enact legislation giving effect to decisions made at international conferences. This Act was enacted by the Government in 1981 to purify our air to prevent pollution. This Act is enacted in order to take the necessary steps to protect the natural resources of our planet which among other things includes conservation of quality air and ensures regulating the degree of air pollution. It provides that air pollution sources like industries, vehicles, power houses, etc., are not allowed to discharge particulate matter, lead, carbon monoxide, sulfur dioxide, nitrogen oxide, volatile toxic substances or other such toxic substances above a specified limit. For this purpose, Government has established Pollution Control Boards (PCBs) to keep monitoring the level of pollution in the air by analyzing the air. Pursuant to the Air Act 1981 (Prevention and Control of Air Pollution) 'Air pollution' means any solid, liquid or gaseous substance in the air in such concentration as is likely to endanger human beings, plants or other living organisms.

The Air Act as a practice works simultaneously with the Environment (Protection) Act of 1986 (EPA). As a standalone Act, the Air Act authorizes the state boards to notify standards independently under section 17(g)²²⁷. There is an overlap, however. The EPA allows the Central Government to prescribe emission standards which are in the schedules to the Environment (Protection) Rules of 1986 (EPR). Due to section 24 of the EPA, the EPR norms prevail and therefore in practice the state boards typically re-notify the EPR standards under the Air Act.

The Air Act of 1981 amended in 1987 has some interesting features-

1. The Act provides discretion to every state government to notify specific areas as 'air pollution control areas.'
2. The Act authorizes a magistrate to prevent an air polluter from emitting emissions and

empowers the Central and the state boards to issue directions to industries which, in case of failure to comply with, can be enforced by the board shutting down the industry or cutting off its water and electricity supply.

3. Not only can citizens sue to enforce the Act to elicit compliance from the industries, but they can also compel the board to produce the emissions data required to create a citizens' case.

CHAPTER – 2

OBJECTS AND PURPOSE OF THE ACT

The Preamble of the Air (Prevention and Control of Pollution) Act, 1981 states the object for which the act was passed as-

"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. Whereas decisions were taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972, in which India participated, to take appropriate steps for 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."

The key reasons and objectives for which the act was enacted could be stated as follows-

1. With the growing process of industrialization and the propensity of most of the industries to concentrate in places that were already highly industrialized, air pollution started causing problems in the nation. The issue was severe in those highly industrialized places that were highly populated.

²²⁶ Constitution of India 1950, art 253.

²²⁷ Air (Prevention and Control of Pollution) Act 1981, s 17(g)

2. It became apparent that existence in the atmosphere beyond specified boundaries of different kinds of pollutants released through industrial waste and from specific human activities linked with traffic, domestic fuel firing for heating purpose, incinerations of municipal refuse etc., is harmful in nature to the health of mankind as well as to animal life, plants, and property.

3. To enhance the air quality of the surrounding environment and avoid control or reduce the air pollution in the country as well as to create awareness nation-wide for prevention, control or abatement of environmental pollution.

4. At the United Nations Conference on the Human Environments at Stockholm in June 1972, where India took part measures were adopted to make proper arrangements for the conservation of the natural resources of the planet earth, which among others, comprise the conservation of air quality and prevention of air pollution. The Government has decided to apply these resolutions of the above-mentioned conference to the extent to which they are relevant to the maintenance of the quality of air and prevention of air pollution.

5. There was a belief that there must be a coordinated approach for the solution of the environmental issues concerning pollution. Due to which it was suggested that the Central Board for the Prevention and Control of Water Pollution established under the Water (Prevention and Control of Pollution) Act, 1974, shall also act as the Central Board for the Prevention and Control of Air Pollution and as a State Board for the Prevention and Control of Air Pollution in the Union Territories.

CHAPTER – 3

KEY DEFINITIONS AND FRAMEWORK OF THE ACT

Here are the key definitions under the Air (Prevention and Control of Pollution) Act, 1981 ;

- (i) '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.²²⁸
- (ii) 'Air pollution' means the presence in the atmosphere of any air pollutant.²²⁹
- (iii) Automobile means any vehicle powered either by internal combustion engine or by any method of generating power to drive such vehicle by burning fuel²³⁰
- (iv) 'Board' means the Central Board or a State Board.²³¹
- (v) Central Board means the Central Pollution Control Board Constituted under Section- 3 of the Water (Prevention and Control of Pollution) Act, 1974.²³²
- (vi) 'Chimney' includes any structure with an opening or outlet from or through which any air pollutant may be emitted.²³³
- (vii) 'Emission' means any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet.²³⁴
- (viii) 'Industrial plant' means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere.²³⁵
- (ix) 'Member' means a member of the

²²⁸ Air (Prevention and Control of Pollution) Act 1981, s 2(a)
²²⁹ Air (Prevention and Control of Pollution) Act 1981, s 2(b).
²³⁰ Air (Prevention and Control of Pollution) Act 1981, s 2(e).
²³¹ Air (Prevention and Control of Pollution) Act 1981, s 2(f).
²³² Air (Prevention and Control of Pollution) Act 1981, s 2(g).
²³³ Air (Prevention and Control of Pollution) Act 1981, s 2(h).
²³⁴ Air (Prevention and Control of Pollution) Act 1981, s 2(i).
²³⁵ Air (Prevention and Control of Pollution) Act 1981, s 2(j).

Central Board or a State Board as the case may be, and includes the Chairman thereof.²³⁶

- (x) 'Occupier' 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 persons in possession of the substance.²³⁷
- (xi) 'State Board' means, –²³⁸
- (i) in relation to a State in which the Water (Prevention and Control of Pollution) Act, 1974, is in force and the State Government has constituted for that State a State Pollution Control Board under section-4 of that Act, the said State Board; and
- (ii) in relation to any other State, the State Board for the prevention and control of Air Pollution constituted by the State Government under Section-5 of this Act.

FRAMEWORK OF THE ACT-

The Air (Prevention and Control of Pollution) Act, 1981 (hereafter called Air Act, 1981) contains 54 sections which are comprised in seven chapters. Chapter-I named preliminary deals with short title, extent: and commencement and the definitions (Sec. 1&2). Chapter-II contains the provisions relating to Central and State boards for the prevention and control of air pollution. (Secs.3-15). Chapter-III deals with powers and functions of boards (Secs.16-18). Chapter IV explains the prevention and control of air pollution (Secs.19 to 31-A). Chapter V deals with funds, accounts and audit (Secs.32-36). Chapter VI relates to penalties and procedure (Sec. 37- 46) and chapter VII lists out the miscellaneous

provisions (Secs.47-54).²³⁹

CHAPTER – 4

REGULATORY MECHANISMS AND COMPLIANCE UNDER THE ACT

A. CENTRAL BOARD FOR THE PREVENTION AND CONTROL OF AIR POLLUTION

Constitution of Board-

The Act states that the Central Pollution Control Board Constituted under Section-3 of the Water (Prevention and Control of Pollution) Act²⁴⁰, shall, without prejudice, exercise the powers and functions of the Central Pollution Control Board for the Prevention and Control of air pollution under the Act.²⁴¹

Powers and Functions of Central Board-

The Central Board shall discharge its general functions with respect to the improvement of the quality of air and the prevention, control, or reduction of air pollution in the nation. These are in addition to the functions of the Central Board under the Water (Prevention and Control of Pollution) Act 1974. The specific and without prejudice to the generality of the foregoing, the Central Board shall:

1. Advise the Central Government on any matter relating to the enhancement of the quality of air and the prevention, control or abatement of air pollution.
2. Formulate and bring about a nation-wide programme to be implemented for the prevention, control or abatement of air pollution.
3. Coordinate the efforts of the state and settle disputes between them;
4. Extend technical advice and guidance to the state boards, conduct and fund

²³⁶ Air (Prevention and Control of Pollution) Act 1981, s 2(i).

²³⁷ Air (Prevention and Control of Pollution) Act 1981, s 2(m).

²³⁸ Air (Prevention and Control of Pollution) Act 1981, s 2(o).

²³⁹ Government of India, The Air (Prevention and Control of Pollution) Act, 1981 (India Code, 22 February 2025, 3:45 PM) https://www.indiacode.nic.in/bitstream/123456789/9462/1/air_act-1981.pdf accessed 24 March 2025.

²⁴⁰ 3, Central Pollution Control Board.—

²⁴¹ Central Pollution Control Board, 'Air Pollution' (CPCB, 17 March 2025, 2:15 PM) <https://cpcb.nic.in/air-pollution/#:~:text=CPCB%20%7C%20Central%20Pollution%20Control%20Board> accessed 23 March 2025.

investigations and studies pertaining to air pollution problems and prevention, control or reduction of air pollution;

5. Exercise such of the function of any state board as may, be prescribed in any order;

6. Organize and arrange for training of individuals involved or to be involved in programmes for the prevention, control or abatement of air pollution on such terms and conditions as the Central Board may determine;

7. Organize a nationwide programme in respect of the prevention, control or abatement of air pollution through the mass media;

8. Gather, compile and release technical and statistical information concerning air pollution and measures formulated for its effective prevention, control or reduction and prepare manuals, codes or guides concerning prevention, control or reduction of air pollution;

9. Prescribe standards for air quality;

10. gather and distribute information regarding matters concerning air pollution;

11. Perform such other functions as may be prescribed. The Central Board can set up or recognize laboratories to facilitate it in effectively discharging its functions. The Central Board can:

(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 from time to time think necessary, for the proper performance of its functions and generally for the purpose of bringing into effect the objects of this Act.

B. STATE POLLUTION CONTROL BOARDS

In any State where the Water (Prevention and

Control of Pollution) Act, 1974, is applicable and the State Government has, under Section 4 of that Act²⁴², constituted for such State a State Pollution Control Board, such State Board²⁴³ shall be considered to be the State Board for the Prevention and Control of Air Pollution Constituted under Section 5 of this Act and accordingly such State Pollution Control Board shall, without prejudice to the exercise and performance of its powers and functions under the Act, exercise the powers and perform the functions of the State Board for the prevention and Control of air pollution under this Act.²⁴⁴

Functions of the Board-

The functions of a State Board shall be the following, subject to the provisions of the Air (Prevention and Control of Pollution) Act 1981 and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act 1974:

1. To prepare a coordinated programme for the prevention, control or reduction of air pollution and to obtain its implementation.
2. To advise the State Government on any matter related to prevention, control or abatement of air pollution;
3. To gather and disseminate information in respect of air pollution;
4. To assist the Central Board in the organization of training of the personnel engaged or to be engaged in schemes relating to prevention, control or abatement of air pollution and to organize mass-education programme relating thereto;
5. To enter any control apparatus, factory plant or manufacturing process at all reasonable times and to furnish, by

²⁴² 4. State Pollution Control Boards constituted under section 4 of Act 6 of 1974 to be State Boards under this Act.—

²⁴³ Central Pollution Control Board, 'State Pollution Control Boards and Pollution Control Committees' (CPCB, 21 March 2025, 4:40 PM) <https://cpcb.nic.in/spcbs-pccs/> accessed 25 March 2025.

²⁴⁴ BYJU'S, 'Air (Prevention and Control of Pollution) Act, 1981' (BYJU'S, 15 March 2025, 11:30 AM) <https://byjus.com/free-ias-prep/air-prevention-and-control-of-pollution-act-1981/> accessed 21 March 2025.

order, such directions to such persons as it may deem, necessary to take measures for the prevention, control or suppression of air pollution;

6. To inspect air pollution control areas at such intervals as it may deem necessary, to determine the quality of air therein and to take measures for the prevention, control or reduction of air pollution in such areas;

7. To prescribe, after consultation with the Central Board and having due regard to standards for the quality of air specified by the Central Board, standards for the emissions of air pollutants into the atmosphere from industrial facilities and vehicles or for the release of any air pollutant into the atmosphere from any other facility whatsoever not a ship or an aircraft.

8. To advise the state government in the matter of suitability of any premises or site for conducting any industry likely to lead to air pollution;

9. To carry out such other tasks as may be prescribed or may from time to time be delegated to it by the Central or the state government.

10. To do such other things and to do such other acts, as it may deem necessary, for the proper performance of its functions and generally for the purpose of giving effect to the objects of this Act.

11. It is the responsibility of a state board to make and issue standards after considering health risks and other connected factors. The state board cannot exempt any specific industrial plant or group of plants from the scope of the Act. A state board can appoint or recognize laboratories to facilitate it in effectively conducting its activities.

Disqualifications of members of Board-

Section 8 of the act refers to certain disqualifications regarding members of State Pollution Control Board.²⁴⁵

(1) No individual shall be a member of a State Board established under this Act, who,

(a) is, or has at any time been adjudicated insolvent, or

(b) is of unsound mind and stands so declared by a competent Court, or

(c) is, or has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(d) is, or at any time has been convicted of an offence under this Act,

(e) has directly or indirectly by himself or by any partner, any share or interest in any firm or company carrying on the business of manufacture, sale, or hire of machinery, industrial plant, control equipment or any other apparatus for the improvement of the quality of air or for the prevention, control or abatement of air pollution, or

(f) is a director or secretary, manager or other salaried officer or employee of any company or firm entering into any contract with the Board, or with the Government forming the Board or with a local authority of the State, or with a company or corporation owned, controlled or managed by the Government for the implementation of programmes for improving the quality of air or for prevention, control and abatement of air pollution: or

(g) has so misused, his membership position, as to make his continued presence or the State Board inimical to the interests of the general public.²⁴⁶

²⁴⁵ Air (Prevention and Control of Pollution) Act 1981, s 8.

²⁴⁶ K K Khandelwal and Apoorva K Singh, *Air (Prevention & Control of Pollution) Act, 1981* (Eastern Book Company, 2nd edn, 2022).

Constitution of Committees by the State Board-

A State board can constitute as many committees entirely of members or partially of members and partially of other persons and for such purpose or purposes as it deems fit. A committee constituted under this section shall meet at such time and at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed. The members of the committee, other than the Board members, shall receive fees and allowance, for attending to its meetings and for attending to any other work of the Board, as may be prescribed.

CHAPTER – 5

POWERS OF CENTRAL AND STATE GOVERNMENT UNDER THE AIR ACT, 1981

1. POWER OF THE CENTRAL GOVERNMENT

Power to issue directions

Central government's powers to issue directions are conferred under Section 18 of the Act²⁴⁷. Central government can issue to the Central boards in writing regarding the functioning of its duties. The Central government can by order direct the Central Board to carry out any of the State Board functions in respect of such area, for such period and purpose as the Central government thinks fit, to be stated in the order. The Central government further has powers to direct by order, the business of State Boards to Central Board if it believes that the State Board has failed to act in compliance with any direction issued to it by the Central government and consequently a serious emergency has arisen and it is necessary or expedient to do so in the public interest.²⁴⁸

Power to make Rules-

Sub-section (1) of Section 53 of the act states that the Central Government may, with the

advice of the Central Board, by notification, make rules regarding the following matters-

- (a) the intervals and the time and the venue at which meetings of the Central Board or any committee thereof shall be held and the order to be observed at such meetings, including the quorum required for the conduct of business thereat.
- (b) the fees and allowances payable to the members of a committee of the Central Board, but not being members of the Board, under Section 11;
- (c) the way in which and the purposes for which individuals may be appointed to the Central Board under sub-section (1) of Section 12;
- (d) the fees and allowances payable under sub-section (3) of section 12 to individuals who are associated with the Central Board.
- (e) the duties to be discharged by the Central Board under clause (j) of sub-section (2) of Section 16;
- (f) the manner in which and the period within which the budget of the Central Board may be drawn up and submitted to the Central Government under Section 34;
- (ff) the manner in which the annual report of the Central Board may be drawn up under Section 35; and
- (g) the manner in which the accounts of the Central Board may be kept under sub-section (1) of Section 36.

2. POWER OF STATE GOVERNMENT

Power to declare air pollution control Areas-²⁴⁹

Section 19(1) of the act provides that the State Government can²⁵⁰, after consultation with the State Board, notify any area or areas in the State to be air pollution control area or areas for the purposes of this Act.

²⁴⁹ Air (Prevention and Control of Pollution) Act 1981, s 19.

²⁵⁰ AdvocateKhoj, 'Power to Declare Air Pollution Control Areas' (AdvocateKhoj, 23 February 2025, 5:55 PM) [https://www.advocatekhoj.com/library/bareActs/airpreventionandcontrol/19.php?Title=Air%20\(Prevention%20and%20Control%20of%20Pollution\)%20Act,%201981&STitle=Power%20to%20declare%20air%20pollution%20control%20areas](https://www.advocatekhoj.com/library/bareActs/airpreventionandcontrol/19.php?Title=Air%20(Prevention%20and%20Control%20of%20Pollution)%20Act,%201981&STitle=Power%20to%20declare%20air%20pollution%20control%20areas) accessed 21 March 2025.

²⁴⁷ Air (Prevention and Control of Pollution) Act 1981, s 18.

²⁴⁸ Puneet Bhardwaj, 'Power and Functions of Pollution Control Board Under the Air Act' (LinkedIn, 19 February 2025, 6:30 PM) <https://www.linkedin.com/pulse/power-functions-pollution-control-board-under-air-act-puneet-bhardwaj> accessed 22 March 2025.

Section 19(2) states that the State Government may, after consultation with the State Board-

a. modify any air pollution control area either by extension or contraction;

b. proclaim a new air pollution control area in which can be consolidated one or more current air pollution control areas.

Alternatively, If on consultation, the State Government is of the view that the use of any fuel other than an approved fuel in any air pollution control area or a part thereof is likely to cause or cause air pollution, it may by notification, ban the use of such fuel in such area or part thereof with effect from such date (being not less than three months from the date of the publication of the notification) as it may specify.

Section 19 (4) also lays down that the State Government can, on advice from the State Board, by notification in the Official Gazette, order that with effect from such date as may be specified in this behalf, no appliance, except an approved appliance, shall be utilized in the premises located in an air pollution control area.

Section 19 (5) provides that where the State Government, upon consultation with the State Board, is of the view that burning any material other than fuel within an air pollution control area or any part of an air pollution control area will or is likely to cause air pollution, the State Government can prohibit the burning of such material in such area or part of the area by a notification in the Official Gazette.

Power of state government to make rules-

Section 54(1) provides that the State Government can make rules to implement the objects of this Act in respect of matters not covered under section 53 by notification in the Gazette.²⁵¹

Section 54(2) provides that such rules may deal with all or any of the following matters enumerated in the section. Some of them are as

follows-

1. these qualifications, expertise and experience of scientific, engineering or managerial aspects of pollution control for appointment as member-secretary of a State Board formed under the Act
2. the conditions of service of the Chairman and other members (except the member-secretary) of the State Board appointed under this Act under sub-section (7) of section 7;
3. the intervals and the time and place at which meetings of the State Board or any committee thereof shall be held and the conduct of business at such meetings, including the quorum required for it.
4. the allowances and fees payable to the members of a committee of the State Board who are not members of the Board under sub-section (3) of section 11, and to persons connected with state board under Section 12 (3).
5. the manner in which and the purposes on and for which persons may be connected with the State Board.
6. the terms and conditions of service of the member-secretary of a State Board formed under this Act under sub-section (1) of section 14 and powers and duties to be performed by him under Section 14(2);
7. the conditions subject to which a State Board can appoint such officers and other employees as it thinks fit for the efficient discharge of its functions under sub-section (3) of section 14;

²⁵¹ Air (Prevention and Control of Pollution) Act 1981, s 54.

8. the terms under which a State Board can appoint a consultant.
9. the duties to be discharged by the State Board under clause (i) of sub-section (1) of section 17;
10. the procedure under which any area or areas can be notified as air pollution control area or areas under section 19;
11. the mode of application for the sanction of the State Board, fees payable thereon, the time within which such application shall be made and particulars it may comprise, under section 21;
12. procedure to be followed in case of an inquiry under sub-section (3) of section 21;
13. authorities or agencies to whom particulars under sub-section (1) of section 23 shall be provided;
14. the method in which air samples or emission can be collected under sub-section (1) of section 26;
15. the form of the notice specified under sub-section (3) of Section 26, Report of State Board, report of government analyst;

CHAPTER – 6

OFFENCES, PENALTIES AND PROCEDURE UNDER THE ACT

Chapter VI of the act, from sections 37-46 relates to the penalties and procedures. The various offences and their penalties may be represented in a tabular form as follows-



Sr.No	Offence(s)	Punishment & Penalties
1.	Section 37 – Failure to comply with Section 21 (failing to obtain prior consent before operating in 'Air Pollution Control Area' or violates any condition(s) of the granted consent)	Imprisonment of 1 year and 6 months and fine. For continuing failure, fine upto Rs. 5000 per violation If violation continues beyond one year, imprisonment can be increased from 2 years upto 7 years with fine.
2.	Violation of Section 22 (discharges air pollutants more than the prescribed standards of air quality from any industrial plant)	Same as above
3.	Violation of any direction(s) issued under Section 31-A by the Central Government/CPCB/SPCB	Same as above
4.	Section 38: <ul style="list-style-type: none"> • Destroys, damages, defaces, etc. of any notice, boards, etc. placed by SPCB/CPCB • failing in furnishing any information to Board or officer under Air Act; • failing in intimating the occurrence of emission of air pollutants in excess of the standards; or • giving any false information, or if makes any false statement 	Imprisonment of 3 months or fine upto Rs. 10,000
5.	Section 39: Contravention of any of the provisions of Air Act or any order or directions issued there-under, for which no penalty has been elsewhere provided in Air Act	Imprisonment upto 3 months or with fine upto Rs 10,000 or with both.

Offences by the Company- The Act states that if any offence under the Act is committed by a company, then the officer, who is directly in charge of the affairs of the company, as well as the company, acting through directors, manager, secretary or other officers are considered guilty for such offence committed

subject to the condition that such act is with their consent, connivance or due to their neglect. Here, 'company' shall include any 'body corporate' and any firm or other association of individuals, and 'director', in relation to a firm,

shall mean a partner in firm.²⁵²

Offence by Government Department- The Act provides that if any provision of the Act is contravened by a Government Department, the Head of Department shall be guilty and shall be punished accordingly unless he establishes that the offence was committed without his knowledge or that he takes all due diligence to avoid the commission of such offence.

Role of Civil Courts- The Act provides for the Civil Courts not to grant any suit, which the Appellate Authority is authorized to determine. 36 Thus, an aggrieved individual can only appeal against an order of SPCB in front of the Appellate Authority²⁵³. The Civil Court is only entitled to take cognizance of any offence if the complaint is laid by a Board or any concerned officer of the Boards. Furthermore, no Court inferior to a Metropolitan Magistrate or a Judicial Magistrate of First Class can try any offence falling under the Air Act.

CHAPTER – 7

JUDICIAL INTERPRETATIONS AND LANDMARK CASES

1. M.C.MEHTA v. UOI AND ORS. (Delhi Air Pollution case)

This writ petition was initiated in the year 1985 under Article 21 of the Constitution of India on the issue of air pollution in Delhi. The Petitioner objected to the inaction on the part of the Union of India, Delhi Administration (Government of National Capital Territory of Delhi) and other Authorities by which smoke, extremely poisonous and other corrosive gases were permitted to escape into the atmosphere as a result of which the citizens of Delhi were exposed to high

risk. While the pendency of this Writ Petition, the Hon'ble Supreme Court made various orders/ directions to tackle the emergent situations from time-to-time and instructed the concerned authorities to initiate steps forthwith to combat the severe issue of vehicular pollution in Delhi on 26.7.1998 which comprise phased withdrawal of leaded petrol, retirement of old autos, taxis and buses, construction of new Interstate Bus Terminus at the points of entry, and in addition, consolidation of air quality monitoring.²⁵⁴

2. WORLD SAVIORS v. UNION OF INDIA

The Supreme Court adopted the public interest litigation path opened in the Ganga Pollution Cases 40 to regulate kiln operators in Uttar Pradesh who were violating emission standards. Acting on a petition submitted by a citizens' group under the umbrella, instructed the state board to investigate whether dozens of industries running kilns had abatement equipment and attained the mandated standards. Show cause notices given to units that achieved the norms were acquitted by the court, but the board was instructed to monitor the units from time to time and take necessary action if there was a lapse. Industries running kilns which had not provided air pollution control equipment or were not achieving the standards were directed to close down. Units which had invested in machinery but were not able to utilize it since energy was not available were allowed to resume activities only after power supply was reinstated and new machinery established.²⁵⁵

3. MATHEW LUKOSE v. KERELA STATE POLLUTION CONTROL BOARD

Justice Sankaran Nair of the Kerala High Court elucidates the risks of air pollution

²⁵² Testbook, 'Air (Prevention and Control of Pollution) Act, 1981' (Testbook, 16 March 2025, 8:05 AM) <https://testbook.com/ias-preparation/air-prevention-and-control-of-pollution-act-1981#:~:text=Powers%20and%20Functions%20of%20Central%20Board&text=Plan%20and%20cause%20to%20be,guidance%20to%20the%20State%20Boards.> accessed 24 March 2025.

²⁵³ Legal Service India, 'Air (Prevention and Control of Pollution) Act, 1981' (Legal Service India, 20 February 2025, 7:45 AM) <https://www.legalserviceindia.com/legal/article-6035-air-prevention-and-control-of-pollution-act-1981.html> accessed 23 March 2025.

²⁵⁴ MC Mehta v Union of India (1988) AIR SC 1037

²⁵⁵ World Saviors v Union of India and Others (1996) 3 SCALE 32 (SC).

in this instance, where the people of Chingavanam came together to take on Travancore Electro Chemicals Industries. The company produced calcium carbide and acetylene black in huge amounts. Along with the grievances regarding the slurry that was contaminating streams in the locality, the petitioners alleged that the severe atmospheric pollution was inducing pulmonary diseases and illness. Although seven chimneys emitted carbon dioxide and sulphur dioxide into the atmosphere, the authorities did not take much effort to regulate the emissions. The state board admitted the violations by the polluter but pleaded that it was making its best efforts under the circumstances. The company called attention to its sincere efforts and asserted that by increasing the height of the chimneys and incorporating a Rs. 35 lakh multiple cyclone guided inlet dust collector' had curbed the issue. Assuming that sweep of Article 21 of the Constitution encompasses right to a clean environment, the court gave three months to the company to achieve the standards directed by the board. The board was asked to shut down the plant in case the company did not fulfill these norms. In laying down the time line, the court acknowledged that the company had more than two years from the time the petition had been filed in order to erase the shortcomings.²⁵⁶

Justice Nair's ruling stands out for making a number of features that the Supreme Court followed in subsequent decisions. Among these are the explicit statement of the right to a healthy environment as a dimension of the right to life under Article 21; the securing of help from an amicus curiae; and recourse to the evolving norm of intergenerational justice. The judge also

called for the government to set ambient air quality standards, ambient noise standards and environment impact assessment rules, all of which are now found in the statute book.

4. LAKSHMI CEMENT v. STATE

The issue whether the provisions of the Air Act operate to impliedly repeal the application of section 133 of the Criminal Procedure Code (dealing with public nuisance), arose before the Rajasthan High Court in the instant case. Having rejected the consent application, the board by its letter dated 19 September 1984 directed the company to stop operations and endorsed a copy of the letter to the district collector with a request to take administrative action against the factory. The collector forwarded the letter to the magistrate, Mount Abu, who issued an order on 19 November 1984 under section 133 of the Code requiring Lakshmi Cement to abate the nuisance. By the time the High Court decided the company's petition challenging the magistrate's order, the petition was rendered infructuous by subsequent events. The board issued a provisional consent to the company shortly after the magistrate's order and the company installed air pollution control equipment which brought down the emissions to within the prescribed limits. Allowing the petition to secure the ends of justice since the public nuisance had long abated, the High Court nevertheless rejected Lakshmi Cements' plea that section 133 stood impliedly repealed by passage of the Air Act.²⁵⁷

CHAPTER – 8

²⁵⁶ Mathew Lukose v State of Kerala WP(C) No 27291 of 2017 (Ker HC).

²⁵⁷ Lakshmi Cement v State and Another (1994) Cri LJ 3649 (SC).

COMPARATIVE ANALYSIS WITH INTERNATIONAL AIR POLLUTION LAWS

India's Air (Prevention and Control of Pollution) Act, 1981, is the foundation of the country's campaign against air pollution. In comparison with global legislation such as the United States' Clean Air Act (CAA) and other international regulations, some important differences and similarities are apparent, providing useful lessons for improving India's air quality management.²⁵⁸

United States' Clean Air Act (CAA):

Signed into law in 1963 and profoundly amended in 1970, 1977, and 1990, the U.S. Clean Air Act created a far-reaching federal system for governing air emissions from stationary and mobile sources. The Act permitted the Environmental Protection Agency (EPA) to promulgate National Ambient Air Quality Standards (NAAQS) to safeguard public health and the environment. Significantly, the 1990 amendments implemented a cap-and-trade program that lowered sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions, in effect responding to acid rain issues. The market-based strategy encouraged industries to become more innovative and use cleaner technologies. India's Air (Prevention and Control of Pollution) Act, 1981:

India's Air Act is principally aimed at avoidance, control, and reduction of air pollution via the creation of Central and State Pollution Control Boards. These entities are responsible for monitoring air, enforcing standards, and issuing permits for industrial processes. India's Air Act differs from the U.S. CAA in its failure to specify provisions for market-based instruments such as cap-and-trade systems that have proven very effective elsewhere.²⁵⁹

²⁵⁸ Green University, 'Air Pollution and Law' (Green University, 22 March 2025, 1:25 PM) https://siteadmin.green.edu.bd/uploads/documents/journal-article/2_1711784678_article-document.pdf accessed 25 March 2025

²⁵⁹ SCC Online, 'Air (Prevention and Control of Pollution) Rules' (SCC Online, 17 February 2025, 3:55 PM) <https://www.sconline.com/blog/post/2024/11/14/air-prevention-and-control-of-pollution-manner-of-holding-inquiry-and-imposition-of-penalty-rules/> accessed 23 March 2025.

Comparative Insights and International Best Practices:

1. Holistic Regulatory Frameworks: The U.S. CAA has a comprehensive approach that involves establishing air quality standards, regulating emission sources, and enforcing compliance. India would do well to adopt a more integrated regulatory framework that not only establishes standards but also provides specific strategies to meet them.

2. Market-Based Mechanisms: The effectiveness of the U.S. cap-and-trade program in curbing precursors of acid rain shows the strength of economic incentives in pollution abatement. India can consider similar market-based mechanisms to bring under control pollutants such as SO₂ and NO_x, promoting involvement of industry in emission curbs.

3. Public Participation and Awareness: Globally, public participation has been crucial in environmental management. Increased transparency, public access to air quality information, and community engagement can result in better implementation and compliance.

4. Technological Innovation and Research: Research and development investment in pollution control technologies has been a priority under the U.S. CAA. India can make innovation a priority by offering incentives for cleaner technology development and adoption, thus minimizing end-of-pipe solutions.

5. Decentralized Implementation: The American model provides for states to prepare State Implementation Plans (SIPs) that are suited to their respective contexts, with localized solutions in a federal framework. India may increase the freedom of state pollution control boards so that region-specific approaches can be adopted while having national standards.

CHAPTER – 9

RECENT AMENDMENTS AND FUTURE

PERSPECTIVES

The Air (Prevention and Control of Pollution) Act of 1981 has seen major amendments and policy reforms that have sought to improve air quality management in India. The recent legislative reforms have been geared towards simplifying regulatory procedures and imposing stricter compliance measures. For example, in November 2024, the Central Government modified Section 21 of the Act to exempt some industries from seeking prior permission to set up or operate in specified air pollution control areas. This action was aimed at fostering ease of doing business while keeping environmental protection intact. Moreover, the Ministry of Environment, Forest and Climate Change (MoEF&CC) brought in the Air (Prevention and Control of Pollution) (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024²⁶⁰. The rules give pollution control boards quasi-judicial powers to issue penalties to defaulting industries, thus giving boost to enforcement mechanisms.

Technological innovations have been instrumental in enhancing air quality monitoring and management. The National Clean Air Programme (NCAP), initiated in 2019, targets a reduction in air pollution levels by 20–30% by 2024 in more than 100 non-attainment cities. The programme focuses on the implementation of cleaner technologies and the installation of strong air quality monitoring systems.

Advanced technologies like the Internet of Things (IoT) and real-time data analytics have been used for tracking and containing air pollution. For instance, low-cost air quality monitors have been used in different cities to supply real-time information, allowing for timely interventions. These monitors, designed under programs like the SATVAM project, provide

scalable solutions to continually monitor air quality.

In addition, technological progress in satellite capabilities has improved the ability to track air quality and environmental shifts at a wider scale. Space-based information facilitates the monitoring of pollution sources and dispersion, guiding policy as well as intervention.

Policy changes have also been aimed at vehicular emissions, a major source of urban air pollution. Stricter vehicle emission norms and encouraging the use of electric vehicles (EVs) have been promoted by the government. In Maharashtra, a committee has been constituted to study the viability of prohibiting petrol and diesel vehicles in Mumbai, with only EVs or gas-run vehicles being permitted, as a forward-thinking measure to minimize transportation-related pollution.

In spite of these measures, there are continued challenges in realizing favorable improvements in air quality. Ineffective enforcement of air pollution control policies can result in poor air quality and elevated health risk. Research indicates that ineffective enforcement translates to greater particulate matter levels, highlighting the necessity for effective implementation and compliance measures.

Therefore, recent amendments to the Air Pollution Act, combined with technological innovations and policy reforms, have contributed to the progress of air quality management in India. Nevertheless, continued enforcement, public awareness, and cleaner technology adoption are required in order to bring about long-term air quality improvements.

CONCLUSION

The issue of air pollution was not accorded significant weightage prior to the passage of the Air (Prevention and Control of Pollution) Act, 1981. Indirect legislations alone dealt with air pollution in the past, without a full-fledged scheme for its prevention and control. The Act was enacted in pursuance of India's commitment to the UN

²⁶⁰ Parliament of India, 'The Air (Prevention and Control of Pollution) Amendment Bill, 2024' (Sansad, 25 March 2025, 2:10 PM) <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/79%20of%202024%20AS89202445838PM.pdf?source=legislation#:~:text=The%20Bill%2C%20therefore%2C%20seeks%20to,various%20sectors%20of%20the%20economy,accessed%2025%20March%202025.>

Declaration on the Human Environment, 1972, and seeks mainly to maintain air quality and prevent pollution. It sets up Central and State Pollution Control Boards empowered to control emissions, declare air pollution control areas, and enforce compliance. Heavy polluting industries like textiles, coal, thermal power plants, iron and steel, cement, and chemicals come under tight regulatory measures under this act. Furthermore, the Act authorizes control over industries, transport, and domestic appliances in areas of high pollution so that these do not further degrade. The requirement of 'consent' by State Boards prior to running industrial units is an added control measure whereby industries have to comply with prescribed conditions, or else face punishment.

Even with these provisions, air pollution persists because of ineffective enforcement, poor financial resources, expensive pollution abatement technologies, and lack of public awareness. Legislation such as the Jan Vishwas (Amendment of Provisions) Act, 2023, intends to simplify the compliance process and increase regulatory authorities, but unless enforced rigorously, the legislation is ineffective. For comparison with foreign legislation such as the U.S. Clean Air Act demonstrates the importance of tough enforcement, technologies, and involvement of the people in curbing pollution. Legislators cannot work effectively without public involvement and civic mindedness. Placing environmental awareness in schools, encouraging community activity, and infusing a spirit of responsibility are some of the most important things to be done. Pollution is a social issue, and its resolve is not in law alone but in concerted efforts, making environmental protection a common responsibility.

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