

ANALYTICAL STUDY OF POLLUTION CONTROL BOARDS IN IMPLEMENTING THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

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Introduction

In India consciousness to protect the environment and measures needed to restore it exists since the early days of civilization. The Vedic history bears testimony to this; however in the modern days, especially in post-independent era because of the high priority given to economic growth which resulted into industrialization, urbanization, modernization, less emphasis has been given to conserve the environment. Till 1970, prior to organization of the Habitat Conference at Stockholm no specific steps were taken to protect and preserve the environment quality in India. It is only in 1972 the steps were taken with the formation of the National Committee on Environmental Planning and Coordination (NCEPC) that gradually evolved as a separate department for environment, and gradually reached the full-fledged state of Ministry of Environment and Forests.¹

The decisions were taken at the United Nations Conference at Stockholm in 1972 (the Stockholm Conference) in which India also participated to take appropriate steps for the preservation of the natural resources of the earth including preservation of quality of air. To implement the aforesaid decisions relating to preservation of the quality of air and control of air pollution, the Parliament of India enacted the Air (Prevention and Control of Pollution) Act, 1981², which gave birth to Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs)³.

This paper attempts to explore the evolution of environmental governance in India. In consonance with this exercise, the study in regard to Pollution Control Boards under the Air (Prevention and

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¹ Mrutyunjaya Mishra & Nirmal Chandra Sahu, 2009, *Environmental Governance and State Pollution Control Boards* (2009), <http://www.ecoinsee.org/fbconf/Sub%20Theme%20B/Mishra%20and%20Sahu.pdf>.

² 14 of 1981, received the assent of the President of India on Mar.29,1981 and published in the *Gazette of India* (Ext.), Pt. II, dated Mar. 30, 1981.

³ The Air (Prevention and Control of Pollution) Act, 1981 § 3, 5.

Control of Pollution) Act, 1981 has highlighted the contributing factors for the emergence of environmental governance in India. The study also seeks to address the roles of CPCB and SPCBs in environmental governance in India with reference to prevention of air pollution.

Historical Perspective

In the Stockholm Conference in which India participated, decisions were taken to take steps to ensure to protect environment through preservation of natural resources of the earth including preservation of air and control of air pollution. The Government of India decided to implement these decisions of the said conference. It was felt that there should be integrated approach for tackling the environmental problems related to pollution. It was therefore proposed that the Central Board for the Prevention and Control of Water Pollution, constituted under the Water (Prevention and Control of Pollution) Act, 1974 will also perform the functions of the Central Board for the Prevention and Control of Air Pollution (the Central Board) in the Union Territories. It was also proposed that SPCBs constituted under the said Act will also perform the functions of the said Board in respect of prevention, control and abatement of air pollution. However, in those states in which the State Boards for the Prevention and Control of Water Pollution have not being constituted under the said Act, separate State Boards for the Prevention and Control of Air Pollution (the State Boards) are proposed to be constituted. The state government may establish one or more State Air Laboratories to carry out the functions entrusted to the State Air Laboratories under the Air Act.

Aim, Object and Amendment

The Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) was enacted under Article 253 of the Constitution of India to implement the decisions taken in the Stockholm Conference. The Air Act is implemented by the central and state governments, and Central and State Boards.

Over past few years, the implementing agencies experienced some administrative and practical difficulties in effectively implementing the provisions of the Air Act. Accordingly the Act was amended in 1987 to remove such difficulties.

Following are some notable amendments made in the Air Act:

1. **Widened the powers and functions of the Central Board:** In a specific situation, particularly when a State Board fails to act and comply with the directions issued by the Central Board, the Central Board is to be empowered to exercise the powers and functions of the State Board.
2. **Obligation to obtain consent:** It is made obligatory on the part of a person to obtain consent of the relevant Board even while establishing an industrial plant.
3. **Power of Board to monitor the outside area:** Empowers the Board to obtain information regarding discharge of pollution in excess of specified standards by the industries operating even outside the air pollution control areas.
4. **Strict punishment:** In order to prevent air pollution effectively, the punishments provided in the Air Act are made to be stricter.
5. **Public participation:** In order to elicit public co-operation, it is amended that any person should be able to do complaint to the courts regarding violation of the provisions of the Air Act after giving a notice of 60 days to the Board or the officer authorized in this regards.
6. **Widen the scope of the Air Act:** Omits the Schedule to the Air Act so as to make the Act applicable to all the industries causing air pollution.
7. **Power to give directions:** Empowers the Boards to give directions to any person, officer or authority including the powers to direct closure or regulation of offending establishment or stoppage or regulation of supply of services such as water and electricity.
8. **To seek prohibitory orders from the court:** Empowers the Boards to approach courts to pass orders restraining any person from causing air pollution.
9. **Financial powers:** For increasing the financial resources of the Boards, the amended Air Act empowers them to raise money by means of obtaining loans and issue of debentures.

Functions of CPCB⁴

- Advise the central government on matters relating to pollution.
- Co-ordinate the activities of the State Boards.
- Provide technical assistance to the State Boards; carry out and sponsor investigations and research relating to control of pollution.
- Plan and organize training of personnel.

⁴ The Air (Prevention and Control of Pollution) Act, 1981 § 16.

- Collect sample, and publish technical and statistical data programme manual and code of conduct.
- To lay down standards.
- To plan nationwide programme for pollution control.

Functions of the SPCBs⁵

- To advise the state government on matter relating to pollution and on siting of industries.
- To plan programme for pollution control.
- To collect and disseminate information.
- To carry out inspection.
- To lay down effluent and emission standards.
- To issue consent to industries and other activities for compliance of prescribed emission and effluent standards.

Sources of Air Pollution

- Uncontrolled growth of vehicular population.
- Type of vehicles on road (predominant old vehicles, Bharat Stage-II vehicles, 2 W/3W vehicles).
- Fuel quality issues.
- Fuel adulteration issues.
- Air pollution from SSI units/brick kiln, stone crusher, hot mix plants.
- Large number of D.G. Sets/small power generating sets run on liquid fuel.
- Coal based power station.
- Air pollution in mining areas.
- Toxic pollutant emission from chemical industries.

Methods for Air Pollution Control

- Ambient air quality standards (to set targets).
- Emission limit (with certification test).
- Emission control requirements (reasonably available, best available, lowest achievable emission technologies).
- Product design specifications.
- Emission fees and fines.
- Forced shut downs under the Air Act, 1981 and the Environment (Protection) Act, 1986.
- Emission caps and trading.
- Fuel specifications (with certification tests).
- Vehicle inspection and maintenance programmes.
- Congestion pricing.

⁵ The Air (Prevention and Control of Pollution) Act, 1981 § 17.

- Energy efficiency requirements.
- Demonstrated reasonable programmes.
- BS (III) norms for fuel and vehicles implemented all over India.
- BS (IV) norms for vehicles and fuels implemented in 12 cities.
- Thrust on large of clear transporter fuel (CNG) in few cities.

Conclusion

The study reveals that the role of the Central and State Boards is of immense importance in preventing, controlling, monitoring and abating air pollution control in the country. The Pollution Control Boards however have proven ineffective in internalization of air pollution concern in the process of economic development. This is mainly because of the responsibilities are manifold; inadequate technical and scientific staff; prevalence of uncertainty over resource base; presence of influence of interested groups; existence of jurisdictional problems; absence of punitive measures; non-existence of minimum sampling tests manual; lack of effective and efficient working culture, etc. The Air Act empowers Pollution Control Boards to impose fine against rough industries, incentive mechanisms for the personnel, increase the revenue generation, and to get financial assistance directly from Ministry of Finance.

Above considering, the study emphasis the necessity of improving functioning of the regulatory system by making necessary changes not only in substance of law but also in the working conditions of the Pollution Control Boards so as to improve air quality in the country, thus environment.