International Journal for Multidisciplinary Research (IJFMR)
E-ISSN: 2582-2160 ● Website: www.ijfmr.com ● Email: editor@ijfmr.com

Role of Law in Combatting Air Pollution

Dr. G. Adinarayana

Faculty, PG Department of Law, Sri Venkateswara University, TIRUPATI – 517 502, Andhra Pradesh, India

ABSTRACT

Air pollution in urban areas arises from multiple sources, which may vary with location to location and activity to activity of development. Anthropogenic activities such as rampant industrialization, exploitation and over consumption of natural resources, population explosion are major contributors of air pollution. Regulations and legislations adopted are enumerated. The Clean Air Act envisaged guidelines for industries regarding emission. It has been seen and observed that in spite several rules and regulations, not much has been achieved in controlling air pollution particularly in countries like India. India needs to make tough legislations The present paper is an effort to discuss various aspects of air pollution and control legislation in India emphasizing on the history, present scenario, gaps and drawbacks. It also presents legislative controls with judicial response to certain landmark judgments related to air pollution. The down sides related to enforcement mechanism for the effective implementation of environmental laws for air pollution control have been highlighted.

Keywords: Air Pollution, Effects, Control, Legislation in India

INTRODUCTION

Air pollution is a familiar environmental health hazard. We know what we're looking at when brown haze settles over a city, exhaust billows across a busy highway or a plume rises from a smokestack. Some air pollution is not seen, but its pungent smell alerts. It is a major threat to global health and prosperity. Air pollution, in all forms, is responsible for more than 6.5 million deaths each year globally, a number that has increased over the past two decades. Air pollution is a mix of hazardous substances from both human-made and natural sources. Vehicle emissions, fuel oils and natural gas to heat homes, by-products of manufacturing and power generation, particularly coal-fuelled power plants, and fumes from chemical production are the primary sources of human-made air pollution. Nature releases hazardous substances into the air, such as smoke from wildfires, which are often caused by people, ash and gases from volcanic eruptions and gases, like methane, which are emitted from decomposing organic matter in soils.[1]

IMPACT OF AIR POLLUTION ON HUMAN HEALTH

Air pollution is the greatest environmental threat to public health globally. The World Health Organization (WHO) recently issued stricter recommendations on safe air pollution levels, in a bid to curb the millions of premature deaths and loss of millions more healthy years of life caused by air pollution. They can even lead to a person's death. Long-term health effects from air pollution include heart disease, lung cancer, and respiratory diseases such as emphysema. Air pollution can cause even long-term damage to people's nerves, brain, kidneys, liver, and other organs. Air pollution has

resulted in several respiratory disorders and heart diseases among humans. The cases of lung cancer have increased in the last few decades.

PREVENTION AND CONTROL OF AIR POLLUTION ACT IN INDIA

The Air (Prevention and Control of Pollution) Act was enacted in 1981 and amended in 1987 to provide for the prevention, control and abatement of air pollution in India. The two main laws that regulate air pollution in India: The Air (Prevention and Control of Pollution) Act, 1981 (Air Act) and Environment (Protection) Act, 1986 (EPA). This article is primarily concerned with critical study of provisions under these two acts. [2] The Air (Prevention and Control of Pollution) Act 1981 provides for the control and abatement of air pollution. It entrusts the power of enforcing this act to the CPCB. 1982 - The Air (Prevention and Control of Pollution) Rules defines the procedures of the meetings of the Boards and the powers entrusted to them. The Air Pollution Act of 1981 aimed to provide for the prevention and control of air pollution in India. It established boards at the central and state levels to regulate air quality. The act defined air pollution and identified major causes such as factories, automobiles, and energy sources.

Section 24 of air pollution Act

(1)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 (a)for the purpose of performing any of the functions of the State Board entrusted to him; (b)for the purpose

Case laws for air pollution

The two main laws that regulate air pollution in India: The Air (Prevention and Control of Pollution) Act, 1981 (Air Act) and Environment (Protection) Act, 1986 (EPA) [3]

LEGISLATIONS TO CONTROL AIR POLLUTION

Air (Prevention and Control of Pollution) Act, 1981

The objective of the Air Act 1981 is to preserve the quality of air and control of air pollution.Chapter 3 of this act deals with powers as well as functions of boards. There are two boards namely Central Board and State Boards. Some of their important functions are to improve the quality of air and to prevent, control or abate air pollution in the country, to advise the Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution, to plan and executed a program for the prevention, control or abatement of air pollution, to collect, compile and publish technical and statistical data relating to air pollution and the measures devised for its effective prevention, control or abatement and prepare manuals, codes or guides relating to prevention, control or abatement of air pollution, to lay down standards for the quality of air, 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, 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. The Central Board and State Board work in collaboration of each other. The Central works throughout the nation whereas State Boards work within its state. Similarly, chapter four states about the prevention and control of air pollution. State Government after consultation with State Board can declare any area or areas within the State as air pollution control area or areas for the purposes of this Act, can alter any air pollution control area whether by way of extension or reduction, can declare a new

air pollution control area in which may be merged one or more existing air pollution control areas or any part or parts thereof. [4]

Environment Protection Act, 1986

The Environment Protection Act came in 1986. Prior to this act, there was Department of Environment which was established in 1980 in India. In 1985, it converted into Ministry of Environment and Forests. Similarly, The Air (Prevention and Control of Pollution) Act came before this act in 1981. The objective of this act is to take appropriate steps for the protection and improvement of environment and prevention of hazards to human beings, other living creatures, plants and properties. This act has defined "environment pollution" as the presence of any environmental pollutant in the environment and "environment pollutant" as any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to environment.

Likewise, chapter two deals with general power of Central government. Central Government shall have power to take all such steps it thinks necessary for the preserving and improving the quality of the environment and preventing and controlling environmental pollution, to prohibit and restrict on the handling of hazardous substance in different areas, to prohibit and restrict on the location of industries and the carrying on of the process and operations in different areas, to carry out and sponsor investigations and research relating to problems of environmental pollution, to safeguard for the prevention of accidents which may cause environmental pollution and for providing for re-medical measures for such accidents etc. [5]

Moreover, third chapter talks about the ways of prevention, control and abatement environmental control. It prohibits any person to carry on any industry operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed and to handle or cause to be handled any hazardous substance expert in accordance with such procedure and after complying with such safeguards may be prescribed. Whoever fails to comply or contravenes will be punished with five years imprisonment or with fine which may extend to one lakh rupees, or both, and in the case of failure or if contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. Finally, if it continues more than a year from the date of conviction shall be punishable with imprisonment for the term which may extend to seven years.

If a company commits any offense under this act, every person such as director, manager secretary or another officer of the company who at the time 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 company shall be deemed to guilty of the offence and shall be liable to be proceeded against and punished accordingly.[6]

Delhi Air Pollution an Emergency in India

The Indian Government has announced emergency situation and temporarily shut down construction sites, schools and a coal-fired power station owing to severe levels of toxic air pollutants in Delhi. A Delhi-based NGO "The Centre for Science and Environment" has said the Indian capital had seen the worst air quality in 17 years. Similarly, Delhi Government has told farmers not to burn agricultural wastages. Depending on the last digit of their registration numbers The Delhi government is preparing to reintroduce a temporary scheme to only allow cars to drive on odd or even days. The patient suffering from respiratory diseases have increased in the hospitals in the city. According to World Health

Organization's report of 2012 out of 100,000, 159 died with respiratory disease which shows India has the highest rate in the world. [7]

Clean Air Act

The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes EPA for establishing National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.[8]

NAAQS and SIPs

One of the goals of the Act was to set and achieve NAAQS in every state by 1975 in order to address the public health and welfare risks posed by certain widespread air pollutants. The setting of these pollutant standards was coupled with directing the states to develop state implementation plans (SIPs), applicable to appropriate industrial sources in the state, in order to achieve these standards. The Act was amended in 1977 and 1990 primarily to set new goals (dates) for achieving attainment of NAAQS since many areas of the country had failed to meet the deadlines.[9]

SOURCES OF POLLUTION

Section 112 of the Clean Air Act addresses emissions of hazardous air pollutants. Prior to 1990, CAA established a risk-based program under which only a few standards were developed. The 1990 Clean Air Act Amendments revised Section 112 to first require issuance of technology-based standards for major sources and certain area sources. "Major sources" are defined as a stationary source or group of stationary sources that emit or have the potential to emit 10 tons per year or more of a hazardous air pollutant or 25 tons per year or more of a combination of hazardous air pollutants. An "area source" is any stationary source that is not a major source. [10]

For major sources, Section 112 requires that EPA establish emission standards that require the maximum degree of reduction in emissions of hazardous air pollutants. These emission standards are commonly referred to as "maximum achievable control technology" or "MACT" standards. Eight years after the technology-based MACT standards are issued for a source category, EPA is required to review those standards to determine whether any residual risk exists for that source category and, if necessary, revise the standards to address such risk. [11]

Of late, it was reported that 11.5 per cent of the pop0le died in Delhi dueto air pollution and 5.6 per cent in Hyderabad. Moreover, it also estimated that on an averate 7 per cent of the population is on death in India(Enadu, 2024)[13].

RECOMMENDATIONS

- The Clean Air Act-2019 should be passed immediately, and adequate measures should be taken to implement it effectively.
- The government should create a roadmap to address air pollution issues.
- A forum should be established comprising all the relevant ministries to tackle air pollution.
- Introduce environmental cadres in the Bangladesh Civil Service.
- It should be mandatory for large industries that are responsible for air pollution to implement the Clean Air Act.
- The City Corporation should make it mandatory for buildings to have rooftop gardens.
- Mobile courts should be put in place to check air pollution.

- Increase use of concrete blocks and find a sustainable alternative to brick.
- Establish a separate Air Pollution Control Commission.
- Effective measures should be taken to control workplace air pollution[12].

CONCLUSION

The concept of sustainable development came up with challenging the concept of rapid development. For example, if anyone cuts a tree then he/she has to plant two or more trees. The notion of sustainable development rose up with the idea of preservation of environment. The development should be done in such a way that it will last for a long time and the future generation won't get into problems. But the situation is contrary in the case of India. The pace of development is very fast. But it is failing to maintain clean air. There are acts, case laws, regulatory bodies and so on but still the situation of air is getting worse and worse. Lots of people are dying due to respiratory diseases and lung cancer. Especially in the city, where there is large population and where people from different rural parts of India come to seek facilities, are highly polluted. The life expectancy of people in India might go below then it is today. There are legislations like The Environment Protection Act 1986 and The Air Prevention and Control Act 1981 which have mentioned about preventive measures, regulatory board, punishment and compensation and the precedent established in the Bhopal Disaster Case and MC Meheta V Union of India, air pollution hasn't been reduced but has increased which has been proved by air pollution faced by capital city Delhi recently. It has already been three decades of these above laws which have come into existence but there is no improvement seen in the air and environment as a whole. It is clear that either there is problem in law itself or in the part of implementation. And the problem is in both laws and implementation.

Laws overwhelmingly give discretion to make plans, investigate and research to the boards. It specifically does not address issues like removal of old vehicles, plantation of trees side by the road, dust management, stoppage of burning wastages etc. Therefore, the officials are silent and passive. They do not conduct any research, make plan and investigate to the issues. If the laws were clear regarding the respective issues then they would have been compelled to take action against such activities. Similarly, if the officials had made planned to establish industrial area far from human residence, world heritage sites and cities then there won't be problem. Due to lack of plan the industry pollutes the environment

REFERENCES

1. Air Pollution May Trigger DNA Modifications Tied to Alzheimer's Disease (April 2024)
2. Scientific Journeys: Using AI to Track a Major Source of Pollution (March 2024)
3. Burn Pits' Complex Emissions Simulated in NIEHS Grantee's Laboratory (December 2023)
4. Indoor Wood-burning May Be Linked to Lung Cancer in U.S. Women (September 2023)
5. Everyday Air Pollution Can Harm Brain Development in Adolescents (September 2023)
6. Wildfire Smoke, Other Air Pollution Can Harm Brain Health, Expert Says (August 2023)
7. Burning Plastic Can Affect Air Quality, Public Health (August 2022)
8. Interventions Needed to Slow Climate-driven Air Pollution, Researchers Note (March 2022)
9. Air Pollution and Forever Chemicals Continue to Pose Health Risks (March 2022)
10. Air Pollution Affects Children's Brain Structure (February 2022)
11. Increasing Evidence Links Air Pollution With Breast Cancer (November 2021)
12. Fine Particulate Air Pollution Associated With Higher Dementia Risk (September 2021).

13. Air pollution (2004), Enadu, July 5, 2024, p.13.