

ROLE OF CENTRAL POLLUTION CONTROL BOARD, STATE POLLUTION CONTROL BOARDS

The Water (Prevention and Control of Pollution) Act, 1974 has been enacted for the purpose of prevention and control of water pollution. “It came into being at a time when the country had already prepared itself for industrialization and urbanization. The need was keenly felt for the treatment of domestic and industrial effluents, before they were discharged into rivers and streams.” The availability of clean drinking water was becoming a rare phenomenon due to unrestricted and ever growing pollution of streams, rivers and other water sources. It was therefore, expedient to provide for the prevention and control of water pollution and the maintaining or restoring of the wholesomeness of water. In order to achieve this object the Water (Prevention and Control of Pollution) Act, 1974 provides for the establishment of Central and State Pollution Control Boards and enumerates the powers and functions of such Boards.¹

The Water (Prevention and Control of Pollution) Act, 1974 states:

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.

The statement of objects and reasons of the Water (Prevention and Control of Pollution) Act, 1974 states that the problem of pollution of rivers and streams has assumed considerable importance and urgency and it seeks to ensure that the domestic and industrial effluents are not allowed to be discharged into water courses without adequate treatment.

Chapter II of the Water Act, 1974 deals with the constitution of Central board, State Boards and their functions.

Sec.3, the central board is constituted by the central government and is called central pollution control board.

Sec.4, the state boards shall be constituted by the state government and at shall be called as state pollution control board.

Sec.4(4) states that central pollution control board will acts as state board for union territory.

Chapter IV deals with the powers and functions of state and central pollution control boards.

To understand the role of the Central Pollution Control Board and State Pollution Control Board in the prevention and control of water pollution, the powers and functions of the Boards will be discussed in the light of Water (Prevention and Control of Pollution) Act, 1974.

4.1 FUNCTIONS OF CENTRAL POLLUTION CONTROL BOARD

The mandate of the Central Pollution Control Board is to set environmental standards in India, lay down ambient standards and coordinate the activities of State Pollution Control Boards.⁷

According to section 16 of the Water (Prevention and Control of Pollution) Act, 1974, the Central Board has been assigned to discharge the functions as follows:

(a) Advise the Central Government

The Central Pollution Control Board can advise the Central Government on any matter concerning the prevention and control of water pollution.

(b) Co-Ordination with State Board

Central Pollution Control Board is to Co-ordinate the activities of the State Boards and resolve dispute among them.

(c) Technical Assistance/Guidance to State Boards

Central Pollution Control Board is to provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problem of water pollution and prevention, control or abatement of water pollution.

(d) Training Programme

Central Pollution Control Board is to plan and organize the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution.

(e) Organising Comprehensive Programme

Central Pollution Control Board is to organise through mass media a comprehensive programme regarding the prevention and control of water pollution.

(f) Functions as State Board

By the Amending Act, 1988, the Central Board can perform such of the functions of any State Board as may be specified in an order made under section 18(2) of the Water (Prevention and Control of Pollution) Act, 1974 i.e., “power to give directions”-“every State Board shall be bound by such directions in writing as the Central Government or the State Government may give to it.

(g) Publication of Statistical/Technical Data

Central Pollution Control Board is to Collect, compile and publish technical and statistical relating to water pollution and the measures devised for its effective prevention and control and prepare manuals, codes or guides relating to treatment and disposal of sewage and trade effluents and disseminate information connected therewith.

(h) Laying Down Standard for A Stream/Well

Central Pollution Control Board is to lay down, modify or annul, in consultation with the State Government concerned the standards for a stream or well.

(i) Execution of Programme at National Level

Central Pollution Control Board is to plan and cause to be executed by a nationwide programme for the prevention, control or abatement of water pollution.⁸

4.2 FUNCTIONS OF STATE POLLUTION CONTROL BOARDS

In terms of section 17 of the Water (Prevention and Control of Pollution) Act, 1974, the State Board has to perform the following functions :

⁸ Vinay N. Paranjape, *Environmental Law*, Central Law Agency, Allahabad, First Edition, 2013,p.126.

(a) Planning Comprehensive Programme

The State Pollution Control Board is to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the state and to secure the execution thereof.

(b) Advisory functions

The State Pollution Control Board is to advise the state government on any matter concerning the prevention, control or abatement of water pollution.

(c) Dissemination of Information

The State Pollution Control Board is to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof.

(d) Investigation and research

The State Pollution Control Board is to encourage, conduct and participate in investigation and research relating to problems of water pollution and prevention, control or abatement of water pollution.

(e) Organising training programme

The State Pollution Control Board is to collaborate with the Central Board in organising the training of persons engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto.⁹

⁹ Id.

(f) Inspection of sewage/trade effluents plants

The State Pollution Control Board is to inspect sewage or trade effluents works and plants for the treatment of sewage and trade effluents, and to review plans, specifications or other data relating to plants setup for the treatment of water, works for the purification thereof and the system of the disposal of sewage or trade effluents or in connection with the grant of any consent as required by the Water (Prevention and Control of Pollution) Act, 1974.

(g) Lay down Standards for Causing Discharge of Water

The State Pollution Control Board is to lay down, modify or annul effluents standards for the sewage and trade effluents and for the quality of receiving waters resulting from the discharge of effluents and to classify water of the state.

(h) Economical Methods of Treatment of Sewage

The State Pollution Control Board is to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soil, climate and water resources in different regions.

(i) Methods Regarding Utilization of Sewage

The State Pollution Control Board is to evolve methods of utilization of sewage and suitable trade effluents in agriculture.

(j) Methods of Disposal of Sewage

The State Pollution Control Board is to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of

scant stream flows that do not provide for major part of the year, the minimum degree of dilution.

(k) Laying Down Standards for Treatment of Sewage

The State Pollution Control Board is to lay down the standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the streams after the discharge of suit effluents.

(l) Advisory Functions

The State Pollution Control Board is to advise the state government about the location of any industry the carrying out of which is likely to pollute a stream or well

Besides the aforesaid statutory functions, the State Board is also to perform functions as may be prescribed from time to time, or may be entrusted to it by the Central Pollution Control Board or the State Government.¹⁰

4.3 POWERS OF THE CENTRAL POLLUTION CONTROL BOARD

The Central Pollution Control Board is vested with the following powers:

1. The Central Pollution Control Board is empowered by Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 to give directions to the State Pollution Control Boards.
2. The Central Pollution Control Board has powers to perform any of the functions of the State Pollution Control Board in case of non-compliance of any directions given by the Central Pollution Control Board.

¹⁰ *Ibid.*, p.127.

3. The Central Pollution Control Board is empowered to issue directions under section 33A of Water (Prevention and Control of Pollution) Act, 1974 to direct the closure, prohibition or regulation of any industry, operation or process or the stoppage or regulation of supply of electricity, water or any other service.

4.4 POWERS OF STATE POLLUTION CONTROL BOARD

The State Pollution Control Board has the following powers conferred on it by the Water (Prevention and Control of Pollution) Act, 1974:

1. Power to obtain information (Section 20)
2. Power to take samples of effluents for analysis (Section 21)
3. Power of entry and inspection (Section 23)
4. Power to impose restriction on new outlets and new discharges (Section 25)
5. Power to refuse or withdraw consent for the establishment of any industry, etc. (Section 27)
6. Power to carry out certain works (Section 30)
7. Power to carry out emergency operations in case of pollution of stream or well (Section 32)
8. Power to make applications to the courts for restraining apprehended pollution of water in streams or wells (Section 33)
9. Power to give directions (Section 33A)

4.4.1 Power to Obtain Information (Section 20)

For the purposes of enabling the State Pollution Control Board to perform the functions prescribed by the Water (Prevention and Control of Pollution) Act, 1974, it may survey any area and keep records of the flow and volume and other characteristics of a stream or well. The State Pollution Control Board is empowered to give directions requiring any person who is abstracting water from any such stream or well or is discharging sewage or trade effluent into any such stream or well, to give such information as to the abstraction or the discharge in the form prescribed. The state pollution control board is also empowered to give directions to any person in charge of any establishment where any industry, operation or process, or treatment and disposal system is carried out, to furnish all information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment.¹¹

4.4.2 Power to Take Samples of Effluents for Analysis (Section 21)

The State Pollution Control Board or any officer authorised by the State Pollution Control Board shall have power to take samples of water from any stream or well or samples of any sewage or trade effluent, for the purpose of analysis.

4.4.3 Power of Entry and Inspection (Section 23)

Section 23 of the Water (Prevention and Control of Pollution) Act, 1974 confers the power of entry and inspection on the State Pollution Control Boards. This Section provides that any person empowered by the State Board in this behalf shall have a right to enter, at any time and with such assistance as he considers necessary , any place for the following purposes:

- (a) For performing any of the functions of the State Board entrusted to him;

- (b) For determining whether and if so in what manner (i) any such functions are to be performed, or (ii) whether provisions of this Act or rules made thereunder, or (iii) any notice, order, direction or authorisation, served, made, given or granted under this Act is being or has been complied with;
- (c) For examining any plant, record, register, document or any other material object;
- (d) For conducting search of any place in which he has reasons to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed; and (e) for seizing any such plant, record, register, document or other material object, if he has reasons to believe that it may furnish any evidence for the commission of offence punishable under this Act for the rules made thereunder.¹⁴

4.4.4 Power to Impose Restrictions on New Outlets and New Discharges (Section 25)

Section 25 provides that no person shall without the previous consent of the State Pollution Control Board
:

- (a) Establish or take any steps to establish any (i) industry, (ii) operation or process, (iii) any treatment and disposal system, or (iv) any extension or addition thereto , which is likely to discharge sewage or trade effluent into a stream or well, sewer or on land; or
- (b) Bring into use any new or altered outlet for the discharge of sewage;
or
- (c) Begin to make any new discharge of sewage.

**4.4.5 Power to refuse or with draw consent for establishment of any industry etc.,
(Section 27)**

The State Pollution Control Board shall not grant its consent for the establishment of any industry, operation or process etc. is to establish as to comply with all the conditions imposed by the Board.

The State Pollution Control Board may from time to time review any condition and may require the person to whom the consent is granted to make reasonable variation of such condition or the State Pollution Control Board may revoke any such condition.

4.4.6 Power to carry out certain work (Section 30)

In cases where the State Pollution Control Board has granted consent subject to certain conditions and such conditions requires such person to execute any work in connection therewith, the person is expected to carry out those works to fulfil the conditions under which the consent was granted. If the person fails to execute any work in connection with the fulfilment of the conditions imposed by the State Pollution Control Board, then the State Pollution Control Board serve a notice on the person requiring him to execute the work within the time period prescribed in the notice.

In spite of the notice if the person to whom the notice is served fails to execute such work and all expenses incurred by the State Pollution Control Board for the execution of the aforesaid work together with the interest will be recovered by the State Pollution Control Board from the person concerned as arrears of the land revenue.

4.4.7 Power to carry out emergency operations in the case of pollution of streams or well (Section 32)

If it appears to the State Pollution Control Board that any poisonous, noxious or polluting matter is present in any stream or well or on land by reason of discharge of such matter in such stream or such well or such land or as entered into that stream or well due to any

accident or other unforeseen act or event, the State Pollution Control Board may for the reasons recorded in writing carry out certain emergency operations for all or any of the following purposes:

- Removing the matter from the stream or well or on the land and disposing it off in such a manner as the Board considers appropriate;
- Remedying or mitigating any pollution caused by its presence in the stream or well;
- Issuing order immediately restraining or prohibiting the person concerned from discharging any poisonous, noxious or polluting matter into the stream or well or on land or from making insanitary use of the stream or well.

4.4.8 Power to make application to courts for restraining apprehended pollution of water in streams or wells (Section 33)

If the State Pollution Control Board apprehend that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such streams or well or in sewer, or on any land, or otherwise, the SPCB may make an application to a Court not inferior to a Metropolitan Magistrate or a Judicial Magistrate for restraining the person who is likely to cause such pollution from causing such pollution.

4.4.9 Power to give directions (Section 33A)

The State Pollution Control Board may, in exercise of its powers and performance of its functions under the Water Act, issue any direction in writing to the person, officer or authority, and such person, officer, or authority shall be bound to comply with such directions. The power to issue directions includes the power to direct the closure, prohibition or regulation of any industry, operation or proves or the stoppage or regulation of electricity, water or any other services.

4.4.10 Offences by companies (Section 47)

Section 47 of the Water (Prevention and Control of Pollution) Act, 1974 incorporates the principle of vicarious liability. This section provides that where an offence against this act has been committed by a company, every person who, at the time when the offence was committed, was 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 accordingly.³¹