

**Deccan Education Society's
Shri. Navalmal Firodia Law College, Pune
(Criminal Law)**

Submission of Bill Analysis

On

**“The Commission for Air Quality Management in National
Capital Region and Adjoining Areas Bill, 2021”**

-:Submitted To:-

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Ref. No.

Date: 28/03/2024

CERTIFICATE

This is to certify that, Miss. Isha Mahesh Gavaskar has worked on Bill Analysis Report titled "The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021" under my guidance and supervision. This Research has been submitted to Deccan Education Society's Shri. Navalmal Firodia Law College, Pune, during LL.M.(Two Years-Choice Based Credit Course) in the academic year 2024-2025

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DECLARATION BY THE STUDENT

I, **Miss Isha Mahesh Gavaskar**, hereby declare that the work embodied in this Bill Analysis titled “*The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021*” is my own research carried out by me during LL.M. (Two Years-Choice Based Credit Course) in academic year 2024-25. I would like to confirm that wherever references have been made to the contribution of others, it has been acknowledged and accordingly indicated in footnotes and references.

I also declare that this research has been not submitted by me or (as per my knowledge) by anyone else for any other degree or diploma in the Savitribai Phule Pune University or in any other university.

I also declare that in case of any plagiarism, I alone will be responsible for every loss or injury caused to my College or Research Guide and therefore I will indemnify for the same.

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1. INTRODUCTION

The researcher has analysed the bill “*The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021*”. The researcher has further analysed the need for establishment of such Commission, the changes brought in, and problems resolved relating to air pollution in the National Capital Region (NCR) and adjoining areas. The data for the analysis has been collected through various articles, parliamentary discussions and reports relating to the Bill.

2. SHORT HISTORY OF LEGISLATION

The Bill provides for the constitution of a Commission for better co-ordination, research, identification, and resolution of problems related to air quality in the National Capital Region (NCR) and adjoining areas. Adjoining areas have been defined as areas in Haryana, Punjab, Rajasthan, and Uttar Pradesh, adjoining the National Capital Territory of Delhi and NCR, where any source of pollution may cause adverse impact on air quality in the NCR. The Bill also dissolves the Environment Pollution Prevention and Control Authority established in the NCR in 1998. An Ordinance establishing a similar Commission was promulgated in October 2020. It lapsed in March 2021 and was promulgated in April 2021. The Bill repeals the 2021 Ordinance.

3. RATIONAL AND SIGNIFICANCE

This bill analysis will definitely help to gather information and knowledge for their academic discourse. The researcher has studied on different relevant aspects of how the Bill can curb the adverse impact caused on the Air Quality and significance in establishing a dedicated Commission for the same, which is useful in understanding law making.

4. AIMS AND OBJECTIVES OF STUDY

- i. To critically analyse this Bill.
- ii. To find present status of the bill in Lok Sabha and Rajya Sabha.
- iii. To compare this bill with other legislation at the Centre and State level.
- iv. To analyse changes brought in by the Legislation.

5. LITERATURE REVIEW

*The article titled “Air Pollution In Delhi: A Review of past and current Policy approaches”*¹ presents the results of the first stage of the CADTIME (Clean Air in Delhi through Implementation, Mitigation and Engagement) project. It firstly

¹ De Vito, Laura & Chatterton, Tim & Namdeo, Anil & Sm, Shiva Nagendra & Gulia, Sunil & Goyal, Sanjiv & Bell, Margaret & Goodman, Paul & Longhurst, J. & Hayes, Enda & Kumar, Rakesh & Sethi, Virendra & Ramadurai, Sengupta & Majumder, Shoban & Menon, Jyothi & Turamari, Mallikarjun & Barnes, Jo., *Air pollution in Delhi: A review of past and current policy approaches*, AIR180411, WIT Transactions on Ecology and the Environment 441, 451, (2018), https://www.researchgate.net/publication/328229186_Air_pollution_in_Delhi_A_review_of_past_and_current_policy_approaches, last seen on 15/03/2024

contextualises the challenges of air quality management in Delhi within the broader evolution of environmental policies and governance in India, with particular consideration to the tensions between environmental protection and the country's development objectives. Secondly, it sets out how CADTIME will combine multiple source qualitative and quantitative data to develop an air quality action plan and an implementation strategy.

The article titled “Parliament approves Air Quality Bill to curb pollution in Delhi-NCR”² gives a brief overview on the passing of the bill and the major discussions that took place in Rajya Sabha regarding concerns on the effect of this on the farmers when this bill was tabled. The article further highlights the major provisions of the bill, which include the penalties, functions, powers, composition and Nature of the Committee.

The article titled “Reviving NCR’s air: CAQM submits action plan to NGT, mostly in line with CSE recommendations”³ sheds light on the action plan presented by the Commission for Air Quality Management (CAQM) on January 2, 2024 to the National Green Tribunal (NGT), which aimed at improving the air quality in the National Capital Region (NCR) and its surrounding areas. It highlights the major recommendations of Centre for Science and Environment (CSE) that the CAQM has incorporated in its action plan.

² Snehanthu Shekhar, *Parliament approves Air Quality Bill to curb pollution in Delhi-NCR*, India Today (05/08/2021), available at <https://www.indiatoday.in/india/story/parliament -approves-air-quality-bill-to-curb-pollution-in-delhi-ncr-1837282-2021-08-05>

³ Shobhit Shrivastava, *Reviving NCR’s air: CAQM submits action plan to NGT, mostly in line with CSE recommendations*, Down To Earth (16/01/2024), available at <https://www.downtoearth.org.in/news/pollution/reviving-ncr-s-air-caqm-submits-action-plan-to-ngt-mostly-in-line-with-cse-recommendations-93920>, last seen on 13/03/2024

6. RESEARCH METHODOLOGY

i. Tool of Data Collection:

The researcher will primarily rely on Secondary data like books, news articles, Parliamentary debates, Reports relating to Air Quality in NCR and related websites.

ii. Research Models:

a. Critical Analysis: In research, the researcher studies the present law and the present needs of the society and finds out the defects in the existing law. He has to make concrete suggestions based upon the evaluation. He has to also use his wisdom and experience together the material.

The researcher will use this model to critically analyse the need and effect of the Bill.

b. Comparative Model:

The Comparative approach is a methodology that analyses phenomena by putting them together to establish points of similarity and difference between them. This technique is used to describe and explain relationships between two or among more phenomena by providing credible reasons.

The researcher will use this model to compare the Environment Pollution Prevention and Control Authority established in the NCR with the new Commission.

c. Historical Model:

Historical method is about selection, classification and interpretation of past events, testimonies, personalities and figures. The method comprises the techniques and guidelines by which historians use primary sources and other evidence to research a particular subject area.

The researcher will use this method to analyse the problems prevailing in the area of Air Quality in NCR and the previous legislation if any.

7. RESEARCH PROBLEM

The monitoring and management of air quality in the Delhi NCR region has been done by the Central Pollution Control Board (CPCB), the state pollution control boards, the state governments in the region, including Delhi, Haryana, Uttar Pradesh, and Rajasthan, and the EPCA. The Union Ministry of Environment and Forests and Climate Change (MoEFCC), and the Supreme Court itself, which monitors air pollution as per the judgment in 'M C Mehta vs Union of India', 1988, in turn monitor them. This has caused multiplicity of monitoring bodies. In addition to that Environment Pollution Prevention and

Control Authority has not been successful in cleaning the air even after being in force for more than 20 years.

8. HYPOTHESIS

The Bill provides for the constitution of a Commission for better co-ordination, research, identification, and resolution of problems related to air quality in the National Capital Region (NCR) and adjoining areas.

9. SCHEME OF FURTHER RESEARCH

a) HISTORY OF LEGISLATION

The quality of air in the National Capital Region and Adjoining Areas remains a major cause of concern for long time. With the onset of winter every year, Delhi and the surrounding National Capital Region (NCR) witnesses alarmingly poor quality of air. It has become necessary to evolve and implement a consolidated approach for monitoring, tackling and eliminating the causes for air pollution and identifying, specifying and rigorously enforcing measures for elimination and mitigation of air pollution by controlling or eliminating the activities of stubble burning, vehicular pollution, road dust and urban construction, etc.

The Committee appointed under the Environment (Protection) Act, 1986 has taken measures to deal with the menace of air pollution specially in the National Capital Region. But the quality of air remains a cause of concern on account of the absence of a statutory mechanism for vigorous implementation of measures put in place. By orders passed from time to time, the Courts have also set up ad

hoc committees to aid and assist the monitoring of the implementation of its orders and generally to take steps to deal with air pollution. But it is now considered necessary to have a statutory authority with appropriate powers, and charged with the duty of taking comprehensive measures to tackle air pollution on a war footing, with power to coordinate with relevant States and the Central Government and issue directions to statutory authorities established under various laws.

India is committed to create a clean environment and pollution free air as mandated in the Constitution of India. The commitments and obligations to environmental conservation and protection within the ambit of the targeted goals on environmental sustainability under the Sustainable Development Goals, is manifested in the Air (Prevention and Control of Pollution) Act, 1981, which was enacted under Article 253 of the Constitution and more recently in the National Clean Air Programme.

It has been noticed that there is a lack of a permanent, dedicated and participative mechanism adopting a collaborative and participatory approach involving relevant Central Ministries, State Governments, local bodies and other stakeholders to tackle air pollution, in the National Capital Region and Adjoining Areas. It has been further noticed that sources of air pollution, especially in the National Capital Region, consists of a variety of factors which are beyond the local limits of the National Capital Region. It has been emphasised that special focus is required on all sources of air pollution, which are associated with different economic sectors, which inter alia include power, agriculture, transport, industry, residential, and constructions. In that manner, it has been noticed that air pollution is not a localized phenomenon; the effect is

felt in areas even far away from the source, thus creating the need for regional level initiatives through inter-State and inter-city coordination in addition to multi-sectorial synchronization.

Due to the absence of an inter-sectorial, public participative, multi-state dynamic body, the Supreme Court has been monitoring, supervising and guiding the problem of air pollution in the National Capital Region through the continuing mandamus in the case of M.C. Mehta vs. Union of India and Others, W.P.(C) No. 13029/1985. Further due to the above stated absence of an intersectorial, public participative, multi-state dynamic body, the Supreme Court has had to devote its precious time in constituting various ad-hocs or permanent committees at various stages to oversee the problem of air pollution in the National Capital Region and suggest mitigations measures. Previously, in compliance with the directions of the Supreme Court, the Central Government of India had constituted the Environment Pollution (Prevention and Control) Authority (EPCA) for the National Capital Region with effect from 29 Jan 1998. Initially, the tenure of the said authority was two years, but was extended from time to time. The powers and functions of EPCA were limited to section 5 of the Environment Protection Act, 1986 and limited to State of Delhi without any collaboration with other nearby States thereby limiting its efficacy. The Supreme Court also noting the lack of inter-state co-operation, on multiple occasion has directed the presence of the Chief Secretaries of the four States in question i.e. Punjab, Haryana, Delhi, and Uttar Pradesh in order to ensure inter-State co-operation. Further, due to lack of an oversight mechanism over the joint functioning of the States on issues concerning air pollution, and specifically stubble burning, the Supreme Court had further appointed a one -man

Monitoring Committee under former Supreme Court Judge Madan Lokur to monitor the measures taken by the States to prevent stubble burning. The Supreme Court has sought to improve and propose innovative measures and research initiative to resolve the problem of air pollution.

In order to provide a permanent solution and establish a self-regulated, democratically monitored mechanism for tackling air pollution in National Capital Region and Adjoining Areas, rather than the above-mentioned limited and ad-hoc measures, it is deemed fit to set-up a Commission for Air Quality Management in National capital Region and Adjoining Areas. The said Commission seeks to replace the above-mentioned Committees in order to streamline the public participation, the inter-State cooperation, the expert involvement and persistent research and innovation. Further, the Commission would provide a consolidated and conjoint approach in monitoring, tackling and research in air pollution, and specifically monitoring the measures taken by the States to prevent factors causing air pollution like stubble burning, industrial emissions, road dust, vehicular pollution, construction activities, biomass burning and other major sources.

b) OTHER SIMILAR LEGISLATION AT STATE OR CENTRAL LEVEL

The researcher has studied the Air (Prevention and Control of Pollution) Act provides for the control and abatement of air pollution and various Boards for carrying out these functions.

Air (Prevention and Control of Pollution) Act:

The purpose of the Air (Prevention and Control of Pollution) Act is to provide for the prevention, control, and abatement of air pollution. It also aims to establish Boards with the intention of carrying out the aforementioned purposes and confers as well as assigns powers and functions relating to such Boards; and to address matters connected with the aforementioned functions and powers. The act is a result of the decision taken by India at the United Nations Conference on the Human Environment held in Stockholm in June, 1972, in which India participated. India thus made an oath to take appropriate steps for the preservation of the natural resources of the earth, which, among other things, include the preservation of the quality of air and control of air pollution. 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.

In order to control the problem of air pollution the Act has been enacted. The Act has set rules for the establishment of the Air Quality Control Board as per Section 3 and Section 4 of the Act. The main function of the Board is to reduce and control the level of air pollution in India as per Section 16 and Section 17 of the Act. The main purpose of the Act is to improve air quality, by setting rules to control industrial pollution, control pollutant emissions from the industries to protect the environment, and set rules to protect human health. The government has the power to make rules as per Section 53 and Section 54 of the Act whenever it is necessary.

Section 2(f) classifies the boards to be set up under this Act under two categories: Central and State Boards.

Section 2(g) defines 'Central Board' as being the same as the 'Central Pollution Control Board' which has been constituted under Section 3 of the Water (Prevention and Control of Pollution) Act, 1974, which stipulates that this Board shall be set up by the Central Government of India, for the purposes of the Act.

Section 6 of the Act states that in the case of Union Territories, the Central Board shall exercise the powers of a State Board under that Act, or it may even delegate these powers or functions to any person or body of persons.

Section 2(o) defines 'State Board' as a board set up in those states where the Water (Prevention and Control of Pollution) Act, 1974 is in effect and where the State Governments have decided to set up these Boards. This Act also applies to States where the Water (Prevention and Control of Pollution) Act 1974 is not in effect. 'State Board' is the same as the 'State Pollution Control Board'.

Therefore, we observe that while the Water (Prevention and Control of Pollution) Act 1974 in the first instance, applies to only those states in which it has been given effect, the Air (Prevention and Control of Air Pollution) Act 1981 applies to the whole of India in the first instance.

Constitution of the boards under Air Prevention and Control of Pollution Act, 1981:

Section 3 and Section 4 of this Act state that the appropriate powers and functions shall be given to the Central Board and the State Boards respectively,

and they shall exercise these powers and not go outside the ambit of these powers.

- Central Pollution Control Board:

Section 3 of the Water (Prevention and Control of Pollution) Act, 1974 explains the constitution of the Central Pollution Control Board-

It shall have a full-time Chairman with special knowledge and practical expertise in matters of environmental protection and knowledge and experience in administering institutions dealing with such matters. This Chairman will be nominated by the Central Government.

It shall have a full-time secretary, who shall have the qualifications, knowledge and experience in scientific, engineering and management aspects of environmental protection. The Secretary will be appointed by the Central Government.

It shall have not more than five officials nominated by the central government to represent that government.

It shall not have more than five members nominated by the Central Government, chosen from among the members of the State Boards.

It shall not have more than three officials who represent the interests of the fishery, agriculture, or any other industry or trade, which the government may think fit to be represented.

It shall have two persons from the companies or corporations, owned, managed or controlled by the central government, nominated by that government.

- State Pollution Control Board:

Section 5(2) of the Act explains the constitution of a State Board-

A person, nominated by the state government who has special knowledge and practical experience in dealing with issues related to environmental protection, shall serve as the Chairman of the State Pollution Control Board. This chairman may be full-time or part-time. This decision will be left to the discretion of the State Government.

The Board shall further consist of not more than five officials, nominated by the State Government, to serve as representatives of that government.

Not more than five people from the local authorities are nominated by the State Government.

Not more than three officials nominated by the State Government, who are believed to be representing the interests of the industries of fishery, agriculture, or any other industry or trade that the Central Government thinks ought to be represented.

Two persons from companies or corporations owned, managed, or controlled by the State Government, and are nominated by that State Government.

c) IMPORTANT PROVISIONS OF LEGISLATION

The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021 was introduced in Lok Sabha on July 30, 2021. The Bill provides for the constitution of a Commission for better co-ordination, research, identification, and resolution of problems related to air quality in the National Capital Region (NCR) and adjoining areas. Adjoining areas have been

defined as areas in Haryana, Punjab, Rajasthan, and Uttar Pradesh, adjoining the National Capital Territory of Delhi and NCR, where any source of pollution may cause adverse impact on air quality in the NCR. The Bill also dissolves the Environment Pollution Prevention and Control Authority established in the NCR in 1998. An Ordinance establishing a similar Commission was promulgated in October 2020. It lapsed in March 2021 and was repromulgated in April 2021. The Bill repeals the 2021 Ordinance. Key features of the Bill include:

- a. **Composition:** The Commission will consist of: (i) a Chairperson, (ii) an officer of the rank of a Joint Secretary as the member-secretary and Chief Coordinating Officer, (iii) a serving or former Joint Secretary from the central government, (iii) three independent technical members with expertise in air pollution, and (iv) three members from non-government organisations. The Chairperson and members of the Commission will have a tenure of three years or till the age of seventy years, whichever is earlier. The Commission will also include ex-officio members: (i) from the central government and concerned state governments, and (ii) technical members from Central Pollution Control Board, Indian Space Research Organisation, and NITI Aayog. It may also appoint representatives of certain ministries.
- b. **Selection of Commission:** The central government will constitute a selection committee to recommend appointments of members of the Commission. The Committee will be headed by the Minister of Environment, Forest and Climate Change. Members of the Committee

will include the Cabinet Secretary and the Minister of: (i) Commerce and Industry, (ii) Road Transport and Highways, and (iii) Science and Technology.

- c. **Functions of the Commission:** Functions of the Commission include:
 - (i) co-ordinating actions by concerned state governments (Delhi, Haryana, Punjab, Rajasthan, and Uttar Pradesh), (ii) planning and executing plans to prevent and control air pollution in NCR, (iii) providing a framework for identifying air pollutants, (iv) conducting research and development through networking with technical institutions, (v) training and creating a special workforce to deal with issues related to air pollution, and (vi) preparing action plans such as increasing plantation and addressing stubble burning.
- d. **Powers of the Commission:** Powers of the Commission include: (i) restricting activities influencing air quality, (ii) investigating and conducting research related to environmental pollution impacting air quality, (iii) preparing codes and guidelines to prevent and control air pollution, and (iv) issuing directions on matters including inspections, or regulation which will be binding on the concerned person or authority.
- e. The Commission will be the sole authority with **jurisdiction** over matters defined in the Bill (such as air quality management). In case of conflicts, directions of the Commission will prevail over the orders of the respective state governments, the Central Pollution Control Board (CPCB), state PCBs, and state-level statutory bodies.

- f. **Sub-Committees:** The Commission is required to form sub-committees on: (i) monitoring and identification, (ii) safeguarding and enforcement, and (iii) research and development.
- g. **Penalties:** Contravention of provisions of the Bill, or orders and directions of the Commission will be punishable with imprisonment of up to five years, or fine of up to one crore rupees, or both. The Bill excludes farmers from the scope of these penalties. However, the Commission may collect an environmental compensation from farmers causing pollution by stubble burning. The central government will prescribe this compensation. Appeals against the Commission's orders will lie with the National Green Tribunal.

d) CHANGES BROUGHT BY THE LEGISLATION

The Researcher will analyse what major changes were brought about by the Legislation as it dissolved the Environment Pollution (Prevention and Control) Authority (EPCA) for the NCR.

The members of Commission for Air Quality Management (CAQM) in National Capital Region and adjoining Areas met during the initial stage, reviewed the air quality scenario in the region, actions taken by various agencies so far, and enlisted the further steps that need to be taken for improving the air quality. The Commission also felt that active public involvement is critical in the abatement of air pollution and identified the following major immediate measures:⁴

⁴ *Commission for air quality reviews air quality scenario in National Capital Region and adjoining areas*, Press Information Bureau Delhi, available at <https://pib.gov.in/PressReleasePage.aspx?PRID=1671452>, last seen on 20/03/2024

1. Minimize use of personalized transport to the extent possible
2. Restrict travel unless absolutely essential
3. Encourage work from home
4. Strict enforcement of laws and rules regarding dust control measures including at construction sites
5. Strict enforcement to prevent burning of municipal solid waste and biomass
6. Intensify water sprinkling particularly in dust prone areas
7. Use of anti-smog guns at pollution hotspots specially at construction sites
8. Strict implementation of extant rules, Courts and Tribunal orders regarding stubble burning and use of fire crackers
9. Seek co-operation from civil society and public spirited citizens to report air pollution incidents on the Sameer App
10. Encourage coal using industries in NCR to minimize the use of coal in the coming months.

Commission for Air Quality Management Concerns:

There have been concerns expressed by some quarters regarding certain the establishment of the Commission for Air Quality Management.

- Environmentalists have expressed their reservations about the seeming concentration of power in the central government.
-

- Also, regarding the membership of the Commission, the concern expressed is that there is only a token representation for environmental bodies and NGOs. There is an overwhelming number of bureaucrats.
- State governments have only one representative each while the central government has a large representation.
- States have expressed problems with the overarching powers vested in the CAQM.
- By dissolving the EPCA, the government has taken the issue of air pollution out of the purview of the judiciary.

Current Scenario:

High level of air pollution in the National Capital Region has been a matter of serious concern and particularly with reference to episodic rises in the levels of air pollution, implementation of a Graded Response Action Plan (GRAP) was notified by the Ministry of Environment' Forest and Climate Change in January 2017, based on the recommendations of the CPCB.

Keeping in view the developments over the years' actions initiated towards abatement of air pollution in NCR and preventive/ restrictive measures listed in the GRAP to address the adverse air quality generally prevailing in the region during winter, it was considered necessary by the Commission to review the Schedule and contours of the Graded Response Action P|an (GRAP) and invoke the identified actions/ measures in advance based on a Predictive AQI forecast;

The GRAP schedule was accordingly reviewed by the Commission in 2022 and notified vide Direction No 66 dated 5th August 2022 to come into force with effect from 01.10.2022.

Based on the experiences and learnings through implementation of the GRAP during the winter season of 2022-23 and further deliberations held by the Sub-Committee on GRAP on 08.06.2023 the GRAP schedule was further reviewed and issued vide Direction No 75 ⁵, which inter-alia included a schedule for regulated operations of DG sets across all sectors in the NCR including industrial, commercial, residential, office establishments etc. in accordance with the detailed directions related to regulated use of DG sets issued vide Direction No 11 dated 02.06.2023;

In the context of above referred Direction consideration of the contentions and submissions made by various stakeholders related to issues in ground level implementation, availability of RECDs / dual fuel systems / new gensets to the latest CPCB standards and various other techno-commercial considerations were put forth by them. The commission' in supersession of all extant directions / orders / guidelines on the regulations for DG sets, vide Direction No. 76 dated 29.08.2023 issued a new schedule. This was for regulated operation of such DG sets (only as a backup against regular power supply failures) across all sectors in NCR which also included the restrictions / regulations to be adopted during the periods of restrictions on DG sets under the GRAP (Stage II and beyond).

The GRAP for the NCR has been classified under 4 different stages of adverse air quality in Delhi viz. Stage-I 'Poor' (AQI 201 - 300), Stage-II 'Very Poor' (AQI 301-400), Stage-III 'Severe' (AQI 401-450) and Stage-IV 'Severe +' (AQI >450) respectively. Based on the dynamic model and weather/ meteorological forecast

⁵ *Schedule for regulated operations of DG sets across all sectors in the NCR*, Commission For Air Quality Management In National Capital Region And Adjoining Areas Direction No.75 (27/07/2023), available at <https://cqm.nic.in/WriteReadData/LINKS/Direction%20No%2075fe6d5d31-2983-40ca-bec9-93d53afd01ff.pdf>, last seen on 22.03.2024

by IMD / IITM on a day-to-day basis, actions under Stages II, III and IV of the GRAP would be invoked at least three days in advance of the AQI reaching to the projected levels of that stage. Restrictive actions undertaken as per previous stages shall be continued, in addition to the air pollution stage under which the restrictive actions are envisaged to be taken. For example, restrictive actions under the Stage III category, whenever invoked, shall be in addition to those under Stage I and II respectively and so on and so forth. The Sub- Committee on GRAP constituted by the Commission meets frequently to plan for advance action and issue necessary orders for invoking various provisions of the GRAP, based on the prevalent air quality and the AQI forecast to be provided by IMD from time to time. The Sub Committee also reviews the actions taken by various agencies responsible towards effective implementation of the GRAP. The Chief Secretaries of NCR States and GNCTD frequently review the actions and implementation of the GRAP especially when the air quality falls or is likely to fall in the 'Severe' or 'Severe +' category (Stage-III and beyond). The Commission may decide upon additional measures and exceptions to the schedule of the GRAP, under different air pollution categories i.e., Stages I to IV, as per the prevalent AQI and weather forecast.

Some of the actions to be taken are as follows:⁶

- Ensure proper implementation of Directions/ guidelines on dust mitigation measures in Construction and Demolition (C&D) activities and sound environmental management of C&D waste.

⁶ Revised Schedule of Graded Response Action Plan (GRAP) for NCR, Commission For Air Quality Management In National Capital Region And Adjoining Areas Direction No.77 (06/10/2023), available at <https://cagm.nic.in/WriteReadData/LINKS/Direction%20No%2077fe6d5d31-2983-40ca-bec9-93d53afd01ff.pdf>, last seen on 22.03.2024

- Ensure strict compliance of Direction Nos. 11-18 dated 11.06.2021 not to permit C&D activities in respect of such projects with plot size equal to or more than 500 sq.mt. which are not registered on the 'web portal' of the respective state / GNCTD, for remote monitoring of dust mitigation measures.
- Ensure regular lifting of Municipal Solid Waste (MSW, Construction & Demolition (C&D) waste, and Hazardous wastes from dedicated dump sites and ensure that no waste is dumped illegally in open land areas.
- Carry out periodic mechanized sweeping and water sprinkling on roads and ensure scientific disposal of the dust collected in designated sites and landfills.
- Intensify use of anti-smog guns, water sprinkling and dust suppression measures in road construction / maintenance / repair projects.
- Stringently enforce prohibition on open burning of biomass and municipal solid waste.
- Ensure that only approved fuels are used by the industries in NCR including in brick kilns and hot mix plants and enforce closure in case of violations, if any.
- Strictly enforce Hon'ble Courts / Tribunal orders regarding ban on firecrackers
- Ensure regular lifting and proper disposal of industrial waste from industrial and non-development areas.
- Stringently enforce emission norms in thermal power plants and strict actions be taken against non-compliance.

- Ensure that diesel generator sets are not used as regular source of power supply.
- Enforce complete ban on coal / firewood in Tandoors in Hotels, Restaurants and open eateries.
- Ensure hotels, restaurants and open eateries use only electricity / clean fuel gas based appliances.
- Ensure quick actions for redressal of complaints on 311 APP, Green Delhi App, SAMEER App and other such social media platforms to curb polluting activities.
- Ensure focussed and targeted action for abatement of air pollution in all identified hotspots in NCR. Intensify remedial measures for the predominant sector(s) contributing to adverse air quality to each of such hotspots.

e) ROLE OF LOK SABHA & RAJYA SABHA

The Researcher has analysed the debates and the statement given in the Lok Sabha and Rajya Sabha when the bill was introduced and eventually passed.

Parliament approved the bill that seeks to set up a commission for air quality management in the National Capital Region and its adjoining areas.

The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021, was passed in the Rajya Sabha with a voice of vote amid din as the Opposition parties continued to disrupt the proceedings over the

Pegasus snooping row, farm laws and other issues. The Lok Sabha had passed the bill on the earlier day.⁷

Union Environment Minister Bhupendra Yadav tabled the bill in both the houses of Parliament. The bill is critical for Delhi-NCR and the four adjoining states as the region has found it hard to curb air pollution especially during certain months of the year.

The bill that replaces an Ordinance to the same effect provides for setting up of a commission as the sole authority with jurisdiction over air quality management.

The formation of this commission is expected to bring an end to blame-game and buck-passing witnessed in the recent past over air quality monitoring and management among states of the region.

Congress MPs Deependra Hooda and Shakti Singh Gohil, in the Rajya Sabha, contested Clause 15 of the bill that allows the government to collect environmental compensation from farmers arguing that the law was anti-farmers and against their interests.

They said Clause 15 of the bill empowers the commission to levy and collect environmental compensation from farmers who contaminate the environment by burning stubble. However, the compensation will be prescribed by the central government.

⁷ Supra 2.

While Congress demands that Clause 15 be removed from the bill, the government received backing from the Telangana Rashtra Samithi (TRS) and Yuvajana Sramika Rythu Congress Party (YSRCP) members.

However, TRS's KR Suresh Reddy requested the government to review Clause 15 saying it gives the commission the authority to demand compensation in case of pollution.

Aam Aadmi Party's (AAP) Sushil Kumar Gupta applauded the initiative but expressed his displeasure with Clause 15. Discussion took place in the Rajya Sabha amid protests by several Opposition members over the Pegasus and farm law issues.

In response to the Opposition's objections, Union Environment Minister Bhupendra Yadav said that Clause 14 of the bill decriminalises the entire process stating clearly that no penalty would be levied on farmers who burn stubble or agricultural products.

According to Clause 14, any non-compliance or contravention of any provision of this Act, rules made thereunder, or any order or directive issued by the commission is punishable by imprisonment for a term of up to five years or a fine of up to Rs 1 crore or both provided that the provisions of this section shall not apply to any farmer for causing air pollution by stubble burning or mismanagement of agricultural residue.

The bill also dissolves the NCR's Environment Pollution Prevention and Control Authority (EPCA), which was established in 1998. An Ordinance establishing a similar Commission was promulgated in October 2020.

In the event of a conflict, the commission's orders or instructions will take precedence over the orders of the individual state governments, the Central Pollution Control Board (CPCB), state PCBs, and state-level statutory bodies.

The Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 was promulgated on April 13, 2021.

The Ordinance, now replaced with new law, called for the formation of a commission to improve coordination, research, identification, and resolution of air quality issues in the National Capital Region (NCR) and adjoining areas.

10. CONCLUSION

CAQM holds promise to tackle complex air pollution problem. Its success will depend on efficient functioning and cooperation between stakeholders.

The Commission for Air Quality Management has been established to comprehensively tackle the complex and challenging problem of air pollution in the Delhi-NCR.

CAQM consolidates the efforts of multiple agencies under one umbrella authority vested with statutory powers to formulate policies, regulate and enforce standards, conduct research and ensure coordinated action across states.

There must be close coordination between the centre and states through forums such as the CAQM Advisory Council. This will help achieve unified strategy. The autonomy of state agencies should be respected while the CAQM provides oversight on cross-cutting aspects of pollution control. A robust grievance redressal mechanism for citizens to raise complaints on pollution issues must be instituted under the CAQM.

The commission should collaborate with technical experts, research institutions and civil society organizations to bolster its functioning.

The success of CAQM will ultimately depend on the efficiency of its functioning and the degree of cooperation achieved between stakeholders including the centre, states, local bodies, experts and civil society. It remains to be seen whether CAQM can usher in improved air quality. But it certainly holds significant promise.

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**Deccan Education Society's
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(Criminal Law)**

**Submission of Progress Report- I on Bill Analysis
On**

**“The Commission for Air Quality Management in National
Capital Region and Adjoining Areas Bill, 2021”**

**-:Submitted To:-
Mrs. Kaveri Deo
(Asst. Professor)**

**-:Submitted by:-
Miss. Isha Mahesh Gavaskar
LL.M. IInd, Sem-IV, Roll No. 21**

2024-2025

Savitribai Phule Pune University, Pune-411007

Respected Sir,

The Researcher under the Guidance of Mrs. Kaveri Deo (Asst. Professor) madam has selected this topic. The researcher has researched some data required to conduct the Bill Analysis from, "Online Sources" The researcher has further finished the proposal of the Bill Analysis under the guidance of the research guide and submitted the same.

The research Guide checked the proposal of the researcher and recommended certain changes to be done in some points in the proposal. Accordingly, the researcher made the recommended changes.

The researcher was able to gather enough data required to draft the proposal of the Bill Analysis. Further, the researcher will analyse the Bill in detail and go ahead to start drafting the main Bill Analysis under the guidance of the research guide.

**Deccan Education Society's
Shri. Navalmal Firodia Law College, Pune
(Criminal Law)**

**Submission of Progress Report- II on Bill Analysis
On**

**“The Commission for Air Quality Management in National
Capital Region and Adjoining Areas Bill, 2021”**

-:Submitted To:-

**Mrs. Kaveri Deo
(Asst. Professor)**

-:Submitted by:-

**Miss. Isha Mahesh Gavaskar
LL.M. IInd, Sem-IV, Roll No. 21**

2024-2025

Savitribai Phule Pune University, Pune-411007

Respected Sir,

The researcher submitted a first progress report after the approval of the proposal for the Bill Analysis of the above mentioned topic. The researcher has completed the final draft of the Bill Analysis. This being the second progress report, the researcher seeks to disclose the progress made in the last few days. The researcher has researched all the data required to conduct the Bill Analysis from "Online Sources" The researcher had completed some points of the review and had given the same for the perusal of the research guide. The research guide checked the same and recommended the following changes:

- a. Using Justified alignment for whole Proposal
- b. Use of Bibliography, Webliography
- d. Reducing the paragraph spacing.
- e. In footnotes, cases cited in italics font to be written in normal font.

The researcher has made the recommended changes. The researcher was able to gather enough data required for preparing the draft of the Bill Analysis. Further, the researcher will make the necessary changes, as will be recommended by the research guide.

**Deccan Education Society's
Shri. Navalmal Firodia Law College, Pune
(Criminal Law)**

**Submission of Progress Report- III on Bill Analysis
On**

**“The Commission for Air Quality Management in National
Capital Region and Adjoining Areas Bill, 2021”**

**-:Submitted To:-
Mrs. Kaveri Deo
(Asst. Professor)**

**-:Submitted by:-
Miss. Isha Mahesh Gavaskar
LL.M. IInd, Sem-IV, Roll No. 21**

2024-2025

Savitribai Phule Pune University, Pune-411007

Respected Sir,

The researcher has submitted a first and second progress report after approval of the proposal of the research related to the above-mentioned topic. In the first month the researcher has completed the final draft of the first, second and third points of the Bill Analysis. This being the third progress report, the researcher seeks to disclose the progress made during last few days.

The researcher has researched all the data required to conduct the book review from Online Resources and as well as library resources. After having sufficient online resources and data, the researcher completed the remaining points of the Bill Analysis draft. The researcher completed the remaining points in the draft and the same was checked by the research guide.

The research guide recommended the following changes:

- a. Correcting the footnotes
- b. Adding some points to the “Parliamentary Debates.”

After reviewing the drafts of all the points, the researcher has completed the compilation of all main points. The researcher had made sincere attempt to cover all the important issues along with critical and analytical comments on the important areas of the Article. The researcher had completed all typing and made necessary clerical changes in the final draft of research work and along with this progress report, the researcher has submitted the proposal, final draft of the Bill Analysis and previous progress reports.