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MULTIPLICITY OF AUTHORITIES

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15.1 *Categories of Multiplicity.*

One of the peculiar features of the Environment Protection Act is the multiplicity of authorities that can be created under the Act. A "multiplicity" of authorities can be said to arise, in at least three different kinds of situations:-

- (i) Two or more authorities may be created, but their functions are totally distinct from each other.
- (ii) Two or more authorities may be created and their functions are partly overlapping.
- (iii) Two or more authorities may be created and their functions may be wholly or substantially overlapping.

In the first case, there may be no consequential confusion as such. But there may still be-

- (a) some practical hardship, as a result of multiplicity of regulation, and
- (b) some confusion in practice by reason of overlapping measures ordered by the various authorities.

In the second and third cases, likelihood of confusion is very substantial, by reason of overlapping or contradictory measures ordered by each authority. In any case, there is serious possibility of embarrassment to the Government.

15.2 *Sources of multiplicity.*

Multiplicity of authorities may arise under an Act through two principal modes. In the first place, the sections of the parent Act itself may confer overlapping powers on two or more authorities.¹ Secondly, without directly

1 See Chapter 12. *Supra*.

creating such authorities, the parent Act may authorise delegation of functions and in the exercise of such a power, the same function can come to be delegated to two or more authorities, so that, in effect, multiple authorities come to be vested with the same function.

15.3 *Authorities under the Environment (Protection) Act, 1986: Possibility of Quadruplicity.*

Coming to the Environment (Protection) Act 1986, one finds that sources of multiplicity of the nature referred to above ¹ abound in the Act. For example, section 3(3) of the Act empowers the Central Government to create an "authority or *authorities*" for performing the functions of the Central Government and there is no prohibition that the same function shall not be vested in more than one authority. In this manner, multiplicity can come into existence. Again, - to take only one example - under section 4 and 23, the same function can be "entrusted" (section 4), or "delegated" (section 23) to more than one officer. ² In fact, if one keeps before view section 3(3) of the Act, under which "an authority or authorities" may be invested by the Central Government with functions under the Act, there can be a "quadruplicity" of authorities exercising the same functions. A particular function may be-

- (i) vested in one authority, created under section 3(3);
- (ii) invested in another authority, created under section 3(3), which uses the plural "authorities";
- (iii) "entrusted" to an officer under section 4(1);
- (iv) delegated to an officer, State Government or other authority under section 23.

In fact, the number of authorities that can be invested with the same function under section 3(3) is unlimited. Hence, in theory, there can be multiplicity *ad infinitum*, which can, of course, be kept within limits by a wise restraint exercised by the Central Government while issuing the order under section 3(3).

1 paragraph 15.2 *Supra*

2 paragraph 15.1 *Supra*

15.4 *Authorities and their functions under the Environment (Protection) Act, 1986.*

What has been stated above¹ by way of illustration, can now be elaborated in detail² by examining the provisions of the Environment (Protection) Act, 1986.

Chart showing multiplicity of authorities under the Environment (Protection) Act, 1986.

Section	Main Authority	Function	Overlapping Authority
Section 3(1) and 3(2).	Central Government.	Power to take measures for protecting and improving the quality of environment.	(i) Authority or authorities created under section 3(3). (ii) Officers "entrusted" with powers under section 4(1). (iii) Officer, State Government or authority to which functions may be delegated under section 23.
Section 3(3).	Authority or authorities constituted by the Central Government by order published in the Official Gazette.	Powers and functions mentioned in the order of Central Government, including (i) power to give directions under section 5, and (ii) power to take measures under section 3(2).	(i) Central Government by virtue of section 3(1) and 3(2). (ii) Officer entrusted with Central Government's functions under section 4(1). (iii) Authority to which delegation is made under section 23.
Section 4(1)	Officers appointed by the Central Government and entrusted with powers and functions under the Act.	Powers and functions entrusted by the Central Government.	(i) Central Government, by virtue of various provisions of the Act. (ii) Authority created under section 3(1). (iii) Officer etc. to whom delegation made under section 23.
Section 4(2).	(a) Central Government. (b) Authority or authorities constituted under section 3(3), if so directed by the Central Government (c) such other officer or authority as the central Government may direct.	Exercise of general control and direction over officers appointed under section 4(1).	(i) Central Government. See section 4(1). (ii) Authority or authorities created under section 3(3), if so authorised. See section 4(2). (iii) Any other authority. See section 4(2).

1 paragraph 15.3 *Supra*.

2 See also Chapter 12 relating to Delegation of Powers.

Section 5, main paragraph.	Central Government.	Issue of written "directions" by the Central Government "in the exercise of its powers and performance of its functions" under the Act.	(i) Authority or authorities created under section 3(3), if so vested. (ii) Officers appointed under section 4, if so entrusted.
Section 5, Explanation.	Central Government.	Power to issue directions regarding stoppage of industry.	Central Government-power to make rules as to stoppage of industry. See section 6(2)(e)
Section 6.	Central Government, acting as rule-making authority under section 6.	Power to make rules on matters referred to in section 3.	(i) Central Government taking measures under section 3(1). (ii) Officer, if so entrusted under section 4. (iii) Central Government, as making rules under section 25.
Section 9(1)(b) and 9(2), read with section 25(2)(c).	Authorities or agencies to be informed about excessive discharge of pollutants. These agencies etc. must take remedial measures. The authorities and agencies are to be specified by rules under section 25(2)(c).	See second column	
Section 10(1).	Officers empowered by Central Government in this behalf.	Right to enter premises and to inspect plant etc.	(i) Authority or Authorities created under section 3(3), if so invested. (ii) Officers appointed under section 4(1), if so entrusted.
Section 11(1).	Central Government or officers empowered by Central Government in this behalf.	Power to take samples.	(i) Authority created under section 3(3), if so invested. (ii) Officer appointed under section 4(1), if so entrusted. (iii) Officer etc. to whom delegation made under section 23.
Section 12.	Environmental laboratories established by the Central Government.	Analysis of samples	

Section 13.	Government Analysts to be appointed or recognised by the Central Government	Analysis of samples.	of
Section 23.	Delegate of Central Government in respect of various powers under the Act.	Central Government's power etc. may be delegated to any officer, State Government or other authority except- (i) power to constitute an authority under section 3(3), and (ii) power to make rules under section 25.	(i) Central Government by virtue of its original power under the relevant provision. (ii) Authority or authorities vested with relevant power under section 3(3). (iii) Officer entrusted with relevant power under section 4(1).
Section 25.	Central Government acting under section 25.	Power to make rules.	(i) Central Government acting under section 6 (on matters mentioned in section 6).