

## **AGENDA ITEM NO. 199.05**

**REGARDING AMENDMENT IN THE AIR  
(PREVENTION AND CONTROL OF  
POLLUTION) ACT, 1981 AND THE  
ENVIRONMENT (PROTECTION) ACT,  
1986 THROUGH THE JAN VISHWAS  
(AMENDMENT OF PROVISIONS) ACT,  
2023 AND AMENDMENT IN THE WATER  
(PREVENTION AND CONTROL OF  
POLLUTION) ACT, 1974.**

## Agenda Item No. 199.05

Regarding amendment in the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 through the Jan Vishwas (Amendment of Provisions) Act, 2023 and amendment in the Water (Prevention and Control of Pollution) Act, 1974.

The Government of India notified the Water (Prevention and Control of Pollution) Act, 1974 (ACT NO. 6 of 1974), vide Notification dated 23.03.1974, for prevention and control of water pollution and for maintaining or restoring wholesomeness of water. The Act was subsequently amended from time to time. Thereafter, the Government of India, notified the Air (Prevention and Control of Pollution) Act, 1981 (ACT NO. 14 of 1981) vide Notification dated 29.03.1981 to deal with air pollution problems and amended it from time to time. The Government of India notified the Environment (Protection) Act, 1986 (No. 29 of 1986) vide Notification dated 23.05.1986, for the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property and amended it from time to time.

The Government of India, vide notification dated 11.07.2023, notified the Jan Vishwas (Amendment of Provisions) Act, 2023 (No. 18 OF 2023) to amend certain enactments for decriminalising and rationalising offences and to further enhance trust-based governance for ease of living and doing business and decriminalized certain offences by replacing them with monetary penalties. Certain offences under the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 were amended through the Jan Vishwas (Amendment of Provisions) Act, 2023. Copies of the amendments made in the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 are enclosed as **Annexure-I** and **Annexure-II** respectively.

The violation of the Air (Prevention and Control of Pollution) Act, 1981 relating to not obtaining prior consent to establish/operate is now dealt with criminal liability by prosecution and/or fine. Other violations or non-compliance of the provisions of the Air (Prevention and Control of Pollution) Act, 1981 is now dealt through imposing penalty and where any person fails to pay penalty and additional penalty, prosecution action has to be taken. The violations or non-compliance of the provisions of the Environment (Protection) Act, 1986 is now dealt through imposing penalty and where any person fails to pay penalty and additional penalty, prosecution action has to be taken.

The Govt. of India, Ministry of Environment, Forest & Climate Change vide DO letter dated 29.11.2023 (**Annexure-III**) addressed to all Chief Secretaries of the States circulated a copy of the draft resolution to be placed before State Legislative Assembly along with the draft bill for amendment in the Water Act, 1974 and requested that a resolution may be passed in the legislative assembly and legislative council of the State,

so that the said amendment bill may be introduced in the Parliament. Accordingly, draft Resolution along with draft Bill received from the MoEF&CC was sent to the Government for consideration and further necessary action.

In the meantime, the Govt. of India, in the Ministry of Environment, Forest & Climate Change, vide DO letter dated 16.02.2024 (Annexure-IV), sent a communication addressed to all the Chief Secretaries of States, informing that the Water (Prevention & Control of Pollution) Amendment Act 2024 has been passed by the Parliament in accordance with Article 252(1) of the Constitution of India i.e. after receiving resolution from the States of Himachal Pradesh and Rajasthan. The amendment will come in to the force in accordance with the relevant provisions in sub section (3) of section (1) of the Amendment Act, that reads "it shall come in force at once in the State of Himachal Pradesh and Rajasthan and the Union Territories, and in any other state which adopt this Act under clause (1) of Article 252 of the Constitution of India read with clause (2) thereof on the date of such adoption". The Government of India, vide notification dated 15.02.2024, notified the Water (Prevention & Control of Pollution) Amendment Act, 2024 (No. 5 OF 2024) (Annexure-V). The corresponding provisions of the Water (Prevention & Control of Pollution) Amendment Act 2024 relating to criminal liability and penalty are similar to the amendments made in the provisions of the Air (Prevention and Control of Pollution) Act, 1981 through the Jan Vishwas (Amendment of Provisions) Act, 2023.

The case for adoption through resolution of the Water (Prevention & Control of Pollution) Amendment Act, 2024 by the Haryana Legislative Assembly is under process with the Government.

The matter is placed before Board for information with reference to amendments in the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 through the Jan Vishwas (Amendment of Provisions) Act, 2023 and the status of the Water (Prevention & Control of Pollution) Amendment Act, 2024.

\*\*\*\*\*



**भारत का राजपत्र**  
**The Gazette of India**

सी.जी.-डी.एल.-अ.-12082023-248047  
CG-DI-E-12082023-248047

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 21] नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (साका)  
No. 21] NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA)

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

**MINISTRY OF LAW AND JUSTICE**  
**(Legislative Department)**

*New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)*

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

**THE JAN VISHWAS (AMENDMENT OF PROVISIONS) ACT, 2023**

No. 18 OF 2023

[11th August, 2023.]

An Act to amend certain enactments for decriminalising and rationalising offences to further enhance trust-based governance for ease of living and doing business.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the *Jan Vishwas (Amendment of Provisions) Act, 2023*.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for amendments relating to different enactments mentioned in the Schedule.

2. The enactments mentioned in column (4) of the Schedule are hereby amended to the extent and in the manner mentioned in column (5) thereof.

Amendment of certain enactments.

3. The fines and penalties provided under various provisions in the enactments mentioned in the Schedule shall be increased by ten per cent. of the minimum amount of fine or penalty, as the case may be, prescribed therefor, after the expiry of every three years from the date of commencement of this Act.

Revision of fines and penalties.

Savings.

4. The amendment or repeal by this Act of any enactment shall not affect any other enactment in which the amended or repealed enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of, or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby amended or repealed;

nor shall the amendment or repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE SCHEDULE

(See section 2)

| Sl. No. | Year | No. | Short title                                   | Amendments   |
|---------|------|-----|---|--|
| (1)     | (2)  | (3) | (4)   | (5)  |
| 1.      | 1867 | 25  | The Press and Registration of Books Act, 1867 | <p>(A) In section 8C,—</p> <p>(i) in sub-section (1), after the words, figure and letter "declaration under section 8B", the words, figures and letter "or an order by the Press Registrar suspending or cancelling the certificate of registration under section 12 or imposing penalties under section 13 or under section 19K" shall be inserted;</p> <p>(ii) in sub-section (2), after the words "records from the Magistrate", the words "or from the Press Registrar, as the case may be," shall be inserted.</p> <p>(B) For sections 12 to 14, the following sections shall be substituted, namely:—</p> <p>"12. Suspension or cancellation of certificate of registration.—(1) The Press Registrar may, by order, suspend the certificate of registration of a newspaper for a period not exceeding one year, if—</p> <p>(a) the publisher has failed to publish the newspaper continuously.</p> <p><i>Explanation.</i>—For the removal of doubts, it is hereby clarified that if a newspaper publishes less than half of its issues, as are required to be published under rule (6) of section 5, such newspaper shall be deemed to</p> |

05/05

| (1) | (2)  | (3) | (4)   | (5)   |
|-----|------|-----|---|---|
| 21. | 1981 | 14  | The Air (Prevention and Control of Pollution) Act, 1981 | <p>(A) In section 21, for sub-section (1), the following shall be substituted, namely:—</p> <p>"(1) No person shall establish or operate any industrial plant in an air pollution control area unless the previous consent of the State Board has been obtained in pursuance of an application made by such person in accordance with the provisions of this section:</p> <p>Provided that the Central Government may in consultation with the Central Pollution Control Board, by notification in the Official Gazette, exempt certain categories of industrial plants from the application of the provisions of this sub-section."</p> <p>(B) After section 21, the following section shall be inserted, namely:—</p> <p>"21A. Power to issue guidelines.—(1) Notwithstanding anything contained in this Act, the Central Government in consultation with the Central Board, may, by notification in the Official Gazette, issue guidelines on the matters relating to the grant, refusal or cancellation of consent by any State Board to establish or operate any industrial plant in an air pollution control area, including the mechanism for time bound disposal of the application made under section 21 or validity period of such consent.</p> <p>(2) Every State Board, in discharge of its functions for the purposes of grant, refusal or cancellation of consent under section 21 shall act in accordance with the guidelines issued under sub-section (1)."</p> <p>(C) For sections 37 to 41, the following sections shall be substituted, namely:—</p> <p>37. Failure to comply with provisions of section 22 or directions issued under section 31A.—(1) Whoever contravenes or does not comply with the provisions of section 22 or directions issued under section 31A, shall, in respect of each such contravention, be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.</p> <p>(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.</p> |

05/06

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

38. Penalties for certain acts.—(1) Whoever—

(a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board;

(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act;

(c) damages any works or property belonging to the Board;

(d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purposes of this Act;

(e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (1) of section 23;

(f) fails in giving any information which he is required to give under this Act, makes a statement which is false in any material particular,

shall be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

38A. Penalty for contravention by Government Department.—(1) Where contravention of any provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

05/07

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (1) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

39. Penalties for contravention of certain provisions of this Act.—If any person contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been provided for in this Act, shall be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees, and where such contravention continues, he shall be liable to additional penalty which may extend to ten thousand rupees for every day during which such contravention continues.

39A. Adjudicating officer.—(1) The Central Government, for the purposes of determining the penalties under sections 37, 38, 38A and section 39, shall appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose the penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has contravened the provisions of this Act, he may determine such penalty as he thinks fit



| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

under the provisions of sections 37, 38, 38A or 39, as the case may be:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.

(3) The amount of penalty imposed under the provisions of sections 37, 38, 38A and 39, shall be in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).

39B. Appeal.—(1) Whoever aggrieved by the order passed by the adjudicating officer under sections 37, 38, 38A or 39, may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).

(2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(3) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (1), it shall not be entertained by the Tribunal unless the person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.

39C. Penalty amount to be credited to Environmental Protection Fund.—Where an adjudicating officer imposes penalty or additional penalty, as the case may be, under sections 37, 38, 38A or 39, the amount of such penalty shall be credited to the Environmental Protection Fund established under section 16 of the Environment (Protection) Act, 1986 (29 of 1986).

39D. Offences for failure to comply with provisions of section 21 and for failure to pay penalty.—(1) Whoever fails to comply with the provisions of section 21, shall, in respect of each such failure, be punishable with imprisonment for a term

05/09

| (1) | (2) | (3) | (4) | (5)   |
|-----|-----|-----|-----|---|
|     |     |     |     | <p>which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to fifty thousand rupees for every day during which such failure continues after the conviction for the first such failure.</p> <p>(2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.</p> <p>(3) Where any person fails to pay the penalty or the additional penalty, as the case may be, imposed under the provisions of this Act within ninety days of such imposition, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount of the penalty or additional penalty so imposed or with both.</p> <p>(4) Where any offence under sub-section (1) or sub-section (2) or sub-section (3) has been committed by a company, every person who, at the time the 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 the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in sub-section (1) or sub-section (2) or sub-section (3), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(5) Notwithstanding anything contained in sub-section (4), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also</p> |

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" includes body corporate, firm, trust, society and any other association of individuals;

(b) "director" includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.

(D) In section 43, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) the adjudicating officer or any officer authorised by him in this behalf; or".

(E) In section 53, in sub-section (1), after clause (g), the following clause shall be inserted, namely:—

"(h) the manner of holding inquiry and imposing penalties by the adjudicating officer under sub-section (1) of section 39A."

22. 1981 61 The National Bank for Agriculture and Rural Development Act, 1981

In section 56, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be liable to penalty which may extend to one lakh fifty thousand rupees in respect of each failure and in the case of a continuing failure, an additional penalty which may extend to seven thousand five hundred rupees for every day during which the failure continues after the first such failure.

(3) For the purpose of adjudging penalty under sub-section (2), the National Bank shall serve notice on the person requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such person.

(4) Any penalty imposed by the National Bank under this section shall be

| (1) | (2)  | (3) | (4)                                    | (5)   |
|-----|------|-----|--|---|
|     |      |     |  | <p>(4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.</p> <p>(5) An appeal under sub-section (2) shall be disposed of within sixty days from the date of filing.</p> <p>(6) The amount of penalty imposed under sub-section (1), if not paid, shall be recovered as an arrear of land revenue."</p> <p>(G) In section 38, in sub-section (2), after clause (m), the following clauses shall be inserted, namely:—</p> <p>"(ma) the manner of holding inquiry and imposing penalty under sub-section (1) of section 30A;</p> <p>(mb) the form and manner of preferring appeal under sub-section (2) of section 30A;"</p> <p>(A) In section 2, after clause (c), the following clause shall be inserted, namely:—</p> <p>'(ca) "Fund" means the Environmental Protection Fund established under section 16;'</p> <p>(B) In section 10, for sub-sections (2) to (4), the following sub-sections shall be substituted, namely:—</p> <p>"(2) Every person carrying on any industry, operation or process of handling any hazardous substance shall render assistance, as may be required, to the person empowered by the Central Government under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause, he shall be liable to penalty provided under section 14B.</p> <p>(3) If any person willfully delays or obstructs any person empowered by the Central Government under sub-section (1) in the performance of his functions under sub-sections (1) or (2), he shall be liable to penalty provided under section 14B.</p> <p>(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizures under this section as they apply to</p> |
| 24. | 1986 | 29  | The Environment (Protection) Act, 1986 |   |

05/12

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

any search or seizures made under the authority of a warrant issued under section 94 of that Code."

(C) After section 14, the following sections shall be inserted, namely:—

"14A. Penalty for contravention of section 7 or section 8.—(1) If any person, contravenes provisions of section 7 or section 8 or the rules made thereunder, he shall be liable to penalty in respect of each such contravention, which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of fifty thousand rupees for every day during which such contravention continues.

14B. Penalty for contravention of sections 9, 10 and 11.—(1) If any person contravenes or does not comply with the provisions of section 9, section 10 or section 11 or orders or directions issued under those sections, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues."

(D) For sections 15 to 17, the following shall be substituted, namely:—

'15. Penalty for contravention of provisions of Act, rules, orders and directions.—(1) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of

05/13

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

ten thousand rupees for every day during which such contravention continues.

15A. Penalty for contravention by companies.—(1) Where any company contravenes any of the provisions of this Act, the company shall be liable to penalty for each such contravention which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.

(2) Where any company continues contravention under sub-section (1), the company shall be liable to additional penalty of one lakh rupees for every day during which such contravention continues.

15B. Penalty for contravention by Government Department.—(1) Where contravention of any of the provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (1) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

15C. Adjudicating officer.—(1) The Central Government, for the purposes of determining the penalties under this Act, may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

(2) The adjudicating officer may—

(a) call upon any person alleged to have contravened or not complied with the provisions of this Act and the rules made thereunder or having the knowledge of the facts and circumstances of the case;

(b) require such person to produce any record, register or other document in his possession or any other document, which in the opinion of the adjudicating officer may be relevant to the subject-matter.

(3) The adjudicating officer shall, after giving the person a reasonable opportunity of being heard in the matter, and if, on such inquiry, he is satisfied that the person concerned has contravened or has not complied with the provisions of this Act or the rules made thereunder, he may impose such penalty as he thinks fit in accordance with the provisions of sections 14A, 14B, 15, 15A or section 15B, as the case may be.

(4) The adjudicating officer, while adjudicating the quantum of penalty under sub-section (3), shall have due regard to the following, namely:—

(a) the population and the area impacted or affected due to such contravention or non-compliance;

(b) the frequency and duration of such contravention or non-compliance;

(c) the vulnerability of the class of persons likely to be adversely affected by such contravention or non-compliance;

(d) the damage caused or likely to be caused to any person, as a result of such contravention or non-compliance, if any;

(e) the undue gain derived out of such contravention or non-compliance; and

(f) such other factor, as may be prescribed.

(5) The amount of penalty imposed under the provisions of sections 14A, 14B, 15, 15A or 15B, as the case may be, shall be

05/15

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).

15D. Appeal.—(1) Whoever aggrieved by the order, passed by the adjudicating officer under this Act may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).

(2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(3) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (1), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.

15E. Penalty amount to be credited to Environmental Protection Fund.—Where any penalty or additional penalty, as the case may be, is imposed under sections 14A, 14B, 15, 15A or section 15B, the amount of the penalty shall be credited to the Environmental Protection Fund established under section 16.

15F. Offence for failure to pay penalty or additional penalty.—(1) Where any person fails to pay the penalty or additional penalty, as the case may be, under sections 14A, 14B, 15, 15A or section 15B within ninety days of such imposition, he shall be liable for imprisonment which may extend to three years or with fine which may extend to twice the amount of the penalty or with both.

(2) Where any offence under sub-section (1) has been committed by a company, every person who, at the time the



| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

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 the company, shall be deemed to be guilty of offence and he shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any person liable to any punishment provided in sub-section (1), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" includes body corporate, firm, trust, society and any other association of individuals;

(b) "director" includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.

(E) After Chapter III, the following Chapter shall be inserted, namely:—

**"CHAPTER IIIA**

**FUND, ACCOUNTS AND AUDIT**

**16. Environmental Protection Fund.—**

(1) The Central Government may, by notification in the Official Gazette, establish a fund to be known as the Environmental Protection Fund.

(2) There shall be credited to the Fund—

05/17

| (1) | (2) | (3) | (4) | (5)  |
|-----|-----|-----|-----|--|
|     |     |     |     | <p>(a) the amount of penalty imposed under the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), and under this Act;</p> <p>(b) the interest or other income received out of investments made from the Fund; and</p> <p>(c) any other amount from such sources, as may be prescribed.</p>  |
|     |     |     |     | <p>(3) The Fund shall be applied for—</p> <p>(a) the promotion of awareness, education and research for the protection of environment;</p> <p>(b) the expenses for achieving the objects and for purposes of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981) and under this Act;</p> <p>(c) such other purposes, as may be prescribed.</p>   |
|     |     |     |     | <p>(4) The Central Government shall notify the administrator for the administration of the Fund and other matters connected therewith and incidental thereto in such manner, as may be prescribed.</p>   |
|     |     |     |     | <p>(5) The Central Government shall allocate seventy-five per cent. of the amount of penalties to the State Governments or Union territory administrations, which has been credited to the Fund.</p>   |
|     |     |     |     | <p>16A. Accounts and audit of Fund.—</p> <p>(1) The Central Government shall maintain separate accounts and other relevant records in relation to the Environmental Protection Fund and prepare an annual statement of accounts in such form, as may be prescribed, in consultation with the Comptroller and Auditor-General of India.</p> <p>(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually to the Central Government.</p> |
|     |     |     |     | <p>16B. Annual report.—The Central Government shall prepare its annual report in relation to Environmental Protection Fund</p>   |

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
|-----|-----|-----|-----|-----|

giving a full account of its activities defined under this Act in such form, as may be prescribed, for each financial year during the previous financial year, and shall be laid before each House of Parliament along with audit report given by the Comptroller and Auditor-General of India."

(F) In section 19, after clause (a), the following clause shall be inserted, namely:—

"(aa) adjudicating officer or any officer authorised by him in this behalf;"

(G) For section 24, the following section shall be substituted, namely:—

"24. Effect of other laws.—The provisions of this Act and the rules or orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."

(H) In section 25, in sub-section (2), after clause (g), the following clauses shall be inserted, namely:—

"(ga) the manner of holding inquiry and imposing penalty by the adjudicating officer under sub-section (1) and other factors for determining quantum of penalty under clause (f) of sub-section (4) of section 15C;

(gb) the other amount under clause (c) of sub-section (2) of section 16;

(gc) the other purposes under clause (c) of sub-section (3) of section 16;

(gd) the manner of administration of Fund under sub-section (4) of section 16;

(ge) form for maintenance of accounts of the Fund and for preparation of annual statement of accounts under sub-section (1) of section 16A;

(gf) form for preparing annual report of the Fund under section 16B;"

(I) After section 33B, the following section shall be inserted, namely:—

"33C. Power to take action against auditors.—Where any auditor fails to comply with any direction given or order made by the National Housing Bank or the

25. 1987 53 The National Housing Bank Act, 1987



लीना नन्दन  
LEENA NANDAN

सचिव  
भारत सरकार  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
SECRETARY  
GOVERNMENT OF INDIA  
MINISTRY OF ENVIRONMENT, FOREST  
& CLIMATE CHANGE

Dated: November 29, 2023

D.O. No. Q-15012/2/2022-CPW

Dear Chief Secretary,

Kindly refer to this Ministry's letter of even number dated 01.07.2022 whereby the Brief Note along with the proposed amendments in the Water (Prevention and Control of Pollution) Act, 1974 was circulated to all State Governments.

2. It may be noted that for amending a law that has been enacted by the Parliament under Article 252 (1) of the Constitution of India, it is required that the Legislative Assemblies of at least two States pass a Resolution authorizing the Parliament to amend that Law.

3. In this regard, it is requested that a Resolution may kindly be passed in the Legislative Assembly and Legislative Council (if duly constituted) of your State so that the said amendment Bill i.e. the "The Water (Prevention and Control of Pollution) Amendment Bill, 2023" may be introduced in the Parliament. A draft Resolution along with the draft Bill, is enclosed herewith for kind reference.

4. I will be grateful if this matter receives your urgent attention and the requisite Resolution is passed by the Legislative Assembly and Legislative Council (if duly constituted) of your State at the earliest.

*Regards*

Yours sincerely,

*Leena Nandan*  
(Leena Nandan)

All Chief Secretaries

65/20

VIDHAN SABHA SECRETARIAT

Government Resolution  
(Passed by the House on \_\_\_\_\_)

Whereas the Parliament had enacted the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974) providing for 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.

AND WHEREAS certain shortcomings in the operation of the law have been noticed which require amendments to the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974).

AND WHEREAS the subject matter of such a law is provided under List-II (State List) of the Seventh Schedule to the Constitution of India and Parliament has no power to make laws for the States with respect to the aforesaid matters except as provided in Articles 249 and 250 of the Constitution of India.

AND WHEREAS it appears to this Legislative Assembly to be desirable that the aforesaid amendments in the Law should be made in the State of \_\_\_\_\_ by Parliament by amending the law.

NOW, THEREFORE in exercise of the powers conferred by clause (2) of Article 252 of the Constitution of India this House hereby resolves that the matters with respect to the amendments to the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974) should be regulated in the State of \_\_\_\_\_ by the Parliament by law.



लीना नन्दन  
LEENA NANDAN

सचिव  
भारत सरकार  
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
SECRETARY  
GOVERNMENT OF INDIA  
MINISTRY OF ENVIRONMENT, FOREST  
& CLIMATE CHANGE

D.O. No. Q-15012/2/2022-CPW  
February 16, 2024

Dear Chief Secretary,

This is with respect to "The Water (Prevention and Control of Pollution) Amendment Act, 2024" (5 of 2024), which has been enacted by Parliament and notified in the Official Gazette of India on 15.02.2024. The objectives of the amendments, inter-alia, are to decriminalise certain provisions, streamline processes and improve the overall functioning of State Pollution Control Boards.

2. "The Water (Prevention and Control of Pollution) Amendment Act, 2024" has been passed by Parliament in accordance with clause (1) of Article 252 of the Constitution of India i.e. after receiving Resolutions from the States of Himachal Pradesh and Rajasthan. The amendments will come into force in accordance with the relevant provision in sub-section (3) of section (1) of the Amendment Act, that reads "It shall come in force at once in the States of Himachal Pradesh and Rajasthan and the Union Territories, and in any other State which adopts this Act under clause (1) of Article 252 of the Constitution read with clause (2) thereof on the date of such adoption".

3. In view of the above, it is requested that a Resolution may kindly be passed in the Legislative Assembly and Legislative Council (if any) of your State, to adopt the provisions of the "The Water (Prevention and Control of Pollution) Amendment Act, 2024" as passed by the Parliament. A copy of the Act and a draft resolution are attached herewith for ready reference.

*Regards*

Yours sincerely,

(Leena Nandan)

Encls. As above

Chief Secretaries (All States except Himachal Pradesh and Rajasthan)

05/22



# भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-16022024-252144  
CG-DL-E-16022024-252144

असाधारण

EXTRAORDINARY

भाग II - खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 51 नई दिल्ली, बुधवार, फरवरी 15, 2024/ माघ 26, 1945 (शक)  
No. 51 NEW DELHI, THURSDAY, FEBRUARY 15, 2024/MAGHA 26, 1945 (SAKA)

इस भाग में विन पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 15th February, 2024/Magha 26, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 15th February, 2024 and is hereby published for general information:—

### THE WATER (PREVENTION AND CONTROL OF POLLUTION) AMENDMENT ACT, 2024

No. 5 of 2024

[15th February, 2024.]

An Act further to amend the Water (Prevention and Control of Pollution) Act, 1974.

5 of 2024

WHEREAS in pursuance of clause (1) of article 252 of the Constitution, the Water (Prevention and Control of Pollution) Act, 1974 had been passed by Parliament;

AND WHEREAS it is considered necessary to make certain amendments thereto for decriminalising and rationalising minor offences to further enhance trust-based governance for ease of living and doing business;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution read with clause (2) thereof, resolutions have been passed by the Legislative Assemblies of the States of Haryana, Pradesh and Rajasthan to the effect that the said Act should be amended by an Act of Parliament for the purposes hereinafter appearing.

BE it enacted by Parliament in the Seventy-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 2024.

Short title  
application and  
commencement

(2) It applies, in the first instance, to the whole of the States of Himachal Pradesh and Rajasthan and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution read with clause (2) thereof.

(3) It shall come into force, at once in the States of Himachal Pradesh and Rajasthan and the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution read with clause (2) thereof on the date of such adoption.

Amendment of section 4.

2. In section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act), in sub-section (2), in clause (a), after the words "State Government", the words "in such manner as may be prescribed by the Central Government" shall be inserted.

6 of 1974.

Amendment of section 5.

3. In section 5 of the principal Act, in sub-section (9), after the word "prescribed", the words "by the Central Government" shall be inserted.

Amendment of section 25.

4. In section 25 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the Central Government may in consultation with the Central Board, by notification in the Official Gazette, exempt certain categories of industrial plants from the provisions of this sub-section."

Insertion of new section 27A.

5. After section 27 of the principal Act, the following section shall be inserted, namely:—

Power to issue guidelines

"27A. (1) Notwithstanding anything in this Act, the Central Government in consultation with the Central Board, may, by notification in the Official Gazette, issue guidelines on the matters relating to the grant, refusal or cancellation of consent by any State Board for establishment of any industry, operation or process, or treatment and disposal system or to bringing into use of a new or altered outlet including the mechanism for time-bound disposal of the application made under section 25 or period of validity of such consent.

(2) Every State Board, in discharge of its functions for the purposes of grant, refusal or cancellation of consent under section 25 or section 27 shall act in accordance with the guidelines issued under sub-section (1)."

Substitution of new sections 41 and 41A for section 41

6. For section 41 of the principal Act, the following sections shall be substituted, namely:—

Failure to comply with provisions of section 20 or directions issued thereunder

"41. (1) Whoever contravenes or does not comply with the directions given under sub-section (2) or sub-section (3) of section 20, within such time as may be specified in the direction, shall in respect of each such contravention or non-compliance, be liable to pay a penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues.



41A. (1) Whoever contravenes or does not comply with any order or direction issued under clause (c) of sub-section (1) of section 32 or any direction issued by a court under sub-section (2) of section 33 or any direction issued under section 33A, shall, in respect of each such contravention or non-compliance, be liable to pay the penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

Failure to comply with provisions of section 32, or directions issued under section 33 or section 33A

(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues."

7. In section 42 of the principal Act,—

Amendment of section 42

(a) in sub-section (1), for the long line, the following long line shall be substituted, namely:—

"shall be liable to pay penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues."

8. For sections 43 and 44 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 43 and 44.

"43. Whoever contravenes the provisions of section 24, shall be liable to pay the penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees and where such contravention continues, he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues.

Penalty for contravention of provisions of section 24.

44. Where for the purpose of grant of a consent in pursuance of the provisions of section 25 or section 26, the use of a meter or gauge or other measure or monitoring device is required and such device is used for the purposes of those provisions, any person who knowingly or wilfully alters or interferes with that device so as to prevent it from monitoring or measuring correctly shall be liable to pay penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees."

Penalty for contravention of section 25 or section 26.

9. Section 45 of the principal Act shall be omitted.

Omission of section 45.

10. For section 45A of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections 45A to 45E for section 45A.

"45A. If any person contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been provided for in this Act, shall be liable to pay the penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees, and where such contravention continues, he shall be liable to pay an additional penalty which may extend to ten thousand rupees for every day during which such contravention continues.

Penalty for contravention of certain provisions of Act.

45B. (1) The Central Government, for the purposes of determining the penalties under the provisions of this Act shall appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the

Adjudicating officer.

05/25

State Government to be the adjudicating officer, to hold an inquiry and to impose the penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has contravened the provisions of this Act, he may determine such penalty as he thinks fit under the provisions of this Act:

Provided that no such penalty shall be imposed without giving the person concerned an opportunity of being heard in the matter.

(3) The amount of penalty imposed under the provisions of sections 41, 41A, 42, 43, 44, 45A and 48, shall be in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010.

19 of 2010.

Appeal.

45C. (1) Any person aggrieved by the order passed by the adjudicating officer under section 45B may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010.

19 of 2010.

(2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(3) The National Green Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (1), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.

Penalty amount to be credited to Environmental Protection Fund

45D. Where an adjudicating officer imposes penalty or additional penalty, as the case may be, under the provisions of this Act, the amount of such penalty shall be credited to the Environmental Protection Fund established under section 16 of the Environment (Protection) Act, 1986.

29 of 1986

Offences for failure to comply with provisions of section 25 or 26 and for failure to pay penalty.

45E. (1) Whoever fails to comply with the provisions of section 25 or section 26, in respect of each such failure, shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to fifty thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

(3) Where any person fails to pay the penalty or the additional penalty, as the case may be, imposed under the provisions of this Act within ninety days of such imposition, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount of the penalty or additional penalty so imposed or with both.

(4) Where any offence under sub-section (1) or sub-section (2) or sub-section (3) has been committed by a company, every person who, at the time the 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 the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in sub-section (1) or sub-section (2) or sub-section (3), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) Notwithstanding anything in sub-section (4), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also have deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" includes body corporate, firm, trust, society and any other association of individuals;

(b) "director", includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.

11. Section 47 of the principal Act shall be omitted.

12. For section 48 of the principal Act, the following section shall be substituted, namely:—

"48. (1) Where contravention of any provision of this Act has been committed by any Department of the Central Government or State Government, the Head of the Department shall be liable to pay the penalty equal to one month of his basic salary;

Provided that such Head of the Department shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (1) is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall be liable to pay the penalty equal to one month of his basic salary:

Provided that such officer shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention."

13. In section 49 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) the adjudicating officer or any officer authorised by him in this behalf, or"

Omission of section 47.  
Substitution of new section for section 48.  
Penalty for contravention by Government Department

Amendment of section 49.

Amendment of  
section 63

14. In section 63 of the principal Act, in sub-section (2),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) the manner of nomination of the chairman of the State Board and the terms and conditions of service of the chairman of the State Board under clause (a) of sub-section (2) of section 4 and under sub-section (9) of section 5;”

(ii) after clause (ii), the following clause shall be inserted, namely:—

“(iii) the manner of holding inquiry and imposing penalties by the adjudicating officer under section 45B;”

Amendment of  
section 64

15. In section 64 of the principal Act, in sub-section (2), in clause (e), for the words, brackets and figures “the chairman and the member-secretary of the State Board under sub-section (9) of section 5 and”, the words “the member-secretary of the State Board” shall be substituted.

DR. RAJIV MANI,  
Secretary to the Govt. of India.

05/28

VIDHAN SABHA SECRETARIAT  
Government Resolution  
(Passed by the House on \_\_\_\_\_)

Whereas the Parliament had enacted the Water (Prevention and Control of Pollution) Amendment Act, 2024 (No. 5 of 2024) notified on 15.2.2024.

AND WHEREAS the Amendment Act shall apply, in the first instance, to the whole of the States of Himachal Pradesh and Rajasthan and the Union Territories and it shall apply to such other States which will adopt this Act, by passing a resolution in their legislative assemblies and legislative councils (if any) under clause (1) of article 252 of the Constitution read with clause (2) thereof, with effect from the date of such adoption.

AND Whereas, the aim of this Amendment Act is to decriminalize the provisions of the original Act "Water (Prevention and Control of Pollution) Act, 1974" [6 of 1974] to facilitate ease of doing business in the country and to streamline the process of nomination of Chairman of State Pollution Control Boards.

AND WHEREAS it appears to this Legislative Assembly/ legislative council to be desirable that the aforesaid Amendment Act should be adopted in the State of \_\_\_\_\_ by passing a resolution in this house.

NOW, THEREFORE in exercise of the powers conferred by Article 252 of the Constitution of India, this House hereby resolves that the amendments with respect to the Water (Prevention and Control of Pollution) Amendment Act, 2024 (No. 5 of 2024) should be adopted in the State of \_\_\_\_\_ as enacted by the Parliament.

\*\*\*\*\*

05/29

No. 4/3/2024-ELECTION  
HARYANA GOVERNMENT  
Chief Secretary's Office  
Election Branch

Dated, Chandigarh the 19<sup>th</sup> January, 2024

To

1. Chief Secretary to Government Haryana (in Services-II Branch),
2. All the Administrative Secretaries to Government Haryana,
3. All the Heads of Department in Haryana,
4. All the Managing Director of Boards/Corporations in Haryana,
5. All the Divisional Commissioner's in Haryana,
6. All the Deputy Commissioner's-cum-District Electoral Officers in Haryana,
7. All the Superintendent's of Police in Haryana,
8. All the Vice Chancellor's of the Universities in the Haryana

Subject:- Enforcement of the Model Code of Conduct-Do's and Don'ts regarding

Sir,

I am directed to refer to letter No. 437/6/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT)/288, dated 02<sup>nd</sup> January, 2024, received from Sh. Narendra N. Butolia, Sr. Principal Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi, on the subject noted above and forward the same for necessary action with the request that these instructions may be brought to notice of all concerned for information and strict compliance.

Yours faithfully

*File*  
19/1/24  
Superintendent Election. *S*

Endst. No. 4/3/2024-1Election

Dated, Chandigarh the 19<sup>th</sup> January, 2024

A copy is forwarded to Sh. Narendra N. Butolia, Sr. Principal Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi w.r.t. their letter No. 437/6/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT)/288, dated 02<sup>nd</sup> January, 2024, for information.

*File*  
19/1/24  
Superintendent Election. *S*

Endst. No. 4/3/2024-1Election

Dated, Chandigarh the 19<sup>th</sup> January, 2024

A copy of letter No. 437/6/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT)/288, dated 02<sup>nd</sup> January, 2024, is forwarded to the Chief Electoral Officer, Haryana, 30-Bays Building, Sector-17, Chandigarh, for information and to bring these instructions to the notice of all concerned political parties.

*File*  
19/1/24  
Superintendent Election. *S*

05/30

By Speed Post/E-Mail



भारत निर्वाचन आयोग सचिवालय  
SECRETARIAT OF THE ELECTION COMMISSION OF INDIA

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001  
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT) / 388

Dated: 2<sup>nd</sup> January, 2024

SP  
3873  
8/11/24

- To:
- (i) The Chief Secretaries of all States and Union Territories.
  - (ii) The Chief Electoral Officers of all States and Union Territories.

Chief Secretary's Office  
3822  
10/11/24  
Harshita

भारत निर्वाचन आयोग  
सचिवालय  
05 JAN 2024  
3822  
परिचालन संख्या

Subject:- Enforcement of the Model Code of Conduct - Do's and Don'ts - regarding

Reference: Commission's instructions:

- (i) No. 437/6/2009-CC&BE, dated 05.03.2009
- (ii) No. 437/6/16/2004, dated 09.03.2004
- (iii) No. 464/INST/2007-PLN-I, dated 07.01.07
- (iv) No. 437/6/INST/2008-CC&BE, dated 19.03.2009
- (v) No. 437/6/INST-2008/CC&BE, dated 01.04.2009
- (vi) No. 437/6/INST/2011-CC&BE, dated 05.04.2011
- (vii) No. 437/6/2011/CC&BE, dated 11.10.2011
- (viii) No. 437/6/1/INST/2013-CC&BE, dated 13.11.2013
- (ix) No. 437/6/INST/2014/CC&BE, dated 14.03.2014
- (x) No. 437/6/INST/2014/CC&BE, dated 20.03.2014
- (xi) No. 437/6/ES023/94 MCS, dated 04.10.1994
- (xii) No. 437/6/93 I.S. II, dated 31.12.1993
- (xiii) No. 434/6/PLN-II, dated 22.03.1996
- (xiv) No. 437/6/2002-PLN-III, dated 25.01.2002
- (xv) No. 437/6/23/2004-PLN III, dated 11.03.2004
- (xvi) No. 437/6/INST/2009-CC&BE, dated 09.03.2009
- (xvii) No. 437/6/2009/CC&BE, dated 24.03.2009
- (xviii) No. 437/6/INST-2009/CC&BE, dated 26.04.2009
- (xix) No. 437/6/INST-2012/CC&BE, dated 21.01.2012
- (xx) No. 437/6/1/2014/CC&BE, dated 29.03.2014
- (xxi) No. 437/6/2007(INST)-PLN-III, dated 21.11.2007
- (xxii) No. 437/6/2004-PLN III, dated 30.12.2004
- (xxiii) No. 437/6/INST/2014/CC&BE, dated 18.03.2014
- (xxiv) No. 437/6/38/2004-PLN-III, dated 06.04.2004
- (xxv) No. 437/6/2006-PLN-III (Vol. II), dated: 01.04.2006, and
- (xxvi) No. 437/6/98-PLN-III dated 08.01.1998

CS (Busy)

PWCS

05 JAN 2024

CCPS

10.01.2024

U.S.P.

11/1/24  
S. S. S.  
11/1/24  
IE

05/31

Madam/Sir,

Model Code of Conduct comes into operation right from the time and day, the Election Commission issues the schedule of elections. The Commission has issued various instructions and clarifications on observance of code of conduct from time to time vide letters listed above. Following are the consolidated instructions in supersession of all the existing instructions in reference:

**I. Applicability of Model Code of Conduct:**

**A. Duration of Application**

- (i) In the case of general elections to the Lok Sabha/State Legislative Assemblies, the Model Code of Conduct which comes into force on the date of announcement of election schedule by the Election Commission, will cease to be in operation once the *Due Constitution Notification* constituting the new House(s) concerned is issued by the Commission, irrespective of the date(s) before which the election is to be completed as mentioned in the election notifications.
- (ii) In the case of bye-elections to the Lok Sabha/State Legislative Assemblies, the Model Code of Conduct will cease to be in operation immediately after the formal declaration of the result of the bye-election by the Returning Officer concerned.
- (iii) In the case of all elections to the Legislative Councils of States, where the Model Code of Conduct is made applicable, it shall cease to be in operation on the declaration of result of election by the Returning Officer concerned.

**B. Extent of Application**

- (i) At the time of a general election to the House of the People or to a State Legislative Assembly, Model Code of Conduct applies throughout India or, the state concerned, as the case may be.
- (ii) At the time of a bye-election, MCC would be enforced in the entire district(s) covering the Constituency going for bye-election(s). However, if a constituency is comprised in State Capital/Metropolitan Cities/Municipal Corporations, then Model Code of Conduct would be applicable in the area of concerned Constituency only and for any district in which Corporation/ Metropolitan City/Municipal Corporation is located, MCC would be enforced in the particular Assembly Constituency Segment only and not in the whole of the district. For the district(s) with number of polling stations less than 10% of the total polling stations of the constituency concerned, the instructions would be applicable only in the



area under jurisdiction of those polling stations. However, it must be ensured that the other instructions regarding deployment of staff, etc., are strictly observed in all districts irrespective of number of polling stations situated therein.

**C. Who are Covered under Model Code of Conduct**

- (i) The provisions of Model Code of Conduct apply to all organizations/committees, corporations/commissions etc. funded wholly or partially by the Central Govt. or any State Govt. like the Commonwealth Games Organizing Committee, DDA, Electricity Regulatory Commissions, Jal Boards, Transport Corporations, any other development authority etc.
- (ii) The general provisions of Model Code of Conduct are applicable to all persons, including those who intend to be a candidate in an election, from the date of announcement of elections by the Commission. Election expenditure by the candidate shall be counted from the date he files his nomination papers. However, it is clarified that expenditure on material which may have been produced before filing of nomination if used after filing of nomination by the candidate shall be included in the election expenditure of the candidate.

**II. Welfare schemes and governmental works**

- 1. Announcement of new projects or programmes or concessions or financial grants in any form or promises thereof or laying of foundation stones, etc., which have the effect of influencing the voters in favour of the party in power is prohibited.
- 2. These restrictions apply equally to new schemes and also ongoing schemes. But it does not mean that in the case of national, regional and State utility schemes, which have already been brought up to the stage of completion, their utilization or functioning in public interest should be stopped or delayed. The coming into force of the Model Code of Conduct cannot be given as an excuse for not commissioning such schemes or allowing them to remain idle. At the same time, it should be ensured that the commissioning of such schemes is done by civil authority and without associating political functionaries and without any fanfare or ceremonies whatever, so that no impression is given or created that such commissioning has been done with a view to influencing the electorate in favour of the ruling party. If in doubt, a clarification should be obtained from Chief Electoral Officer/Election Commission of India.

3. It is further clarified that simply because a budget provision has been made for any particular scheme or the scheme has been sanctioned earlier or a reference to the scheme was made in the address of the Governor or the budget speech of the Minister it does not automatically mean that such schemes can be announced or inaugurated or otherwise taken up after the announcement of elections while the Model Code of conduct is in operation, since they will clearly be intended to influence the voters. Such actions if undertaken will be considered a violation of the model code of conduct.
4. No fresh sanctions for governmental schemes should be made. Review by political executive (Ministers etc.) and processing of beneficiary-oriented schemes, even if ongoing, should be stopped till completion of elections. No fresh release of funds on welfare schemes and works should be made or contract for works awarded in any part of the state where election is in progress without prior permission of the Commission. This includes works under the Member of Parliament (including Rajya Sabha members) Local Area Development fund or MLAs / MLCs Local Area Development Fund, if any such scheme is in operation in the state.
5. No work shall start in respect of which even if work orders have been issued before the model code came into effect, if the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.
6. There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.
7. Commission does not refuse approval for schemes undertaken for tackling emergencies or unforeseen calamities like providing relief to people suffering from drought, floods, pestilences, other natural calamities or welfare measures for the aged, infirm etc. In these matters, however, prior approval of the Commission should be taken and all ostentatious functions should be strictly avoided and no impression should be given or allowed to be created that such welfare measures or relief and rehabilitation works are being undertaken by the Government in office so as to influence the electors in favour of the party in power which at the same time will adversely affect the prospects of the other parties.
8. The names of MPs/MLAs etc. appearing on moving vehicles like water tanks, ambulances etc. funded under MPLAD schemes should be covered suitably during the election period as such vehicles moving from one place to another may be considered as a form of election campaign in favour of the MP/MLA etc. concerned.

All Model Code of Conduct related directions shall be issued only by the Commission. The Cabinet Secretariat or any other government agency should reiterate and disseminate the directions of the Commission for compliance.

- Q. RBI may continue to take decisions unhindered on monetary policy issues.
- 1. After the Model Code of Conduct comes into effect, the Ministry of Finance will need to take prior approval of the Commission on any policy announcements, fiscal measures, taxation related issues and such other financial relief. Similarly, other Ministries/Departments will need to take prior approval of the Commission before announcing any relief/benefit.
- 12. All Government of India references to the Election Commission of India shall be made preferably through the Cabinet Secretariat. In so far as references from State Governments are concerned, the same shall be made to the Election Commission of India through the Chief Electoral Officer (CEO) of the state concerned.
- 13. The following types of existing works can be continued by the government agencies without reference to the Election Commission after the Model Code of Conduct comes into force:
  - a. Work-Projects that have actually started on the ground after obtaining all necessary sanctions;
  - b. Beneficiary-projects where specific beneficiaries by name have been identified before coming of the Model Code of Conduct into force;
  - c. Registered beneficiaries of MGNREGA may be covered under existing projects. New projects under MGNREGA that may be mandated under the provisions of the Act may be taken up only if it is for the already registered beneficiaries and the project is already listed in the approved and sanctioned shelf of projects for which funds are also already earmarked.
- 14. There shall be no bar to release of funds for the completed portion of any work subject to observance of laid down procedures and concurrence of finance department.
- 15. The following type of new works (whether beneficiary or work oriented) that fulfill all the following conditions before Model Code of Conduct comes into effect, can be taken up under intimation to the Commission:
  - a. Full funding has been tied up;
  - b. Administrative, technical and financial sanctions have been obtained

19/05/35

- c. Tender has been floated, evaluated and awarded and
  - d. There is contractual obligation to start and end the work within a given time frame and failing which there is an obligation to impose penalty on the contractor.
  - e. In case of any of the above conditions not being met in such cases prior approval of the Commission shall be sought and obtained.
16. Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose.
17. Tenders other than global tenders, that are already floated may be evaluated but not finalized without prior approval of the Commission. If they are not already floated, they shall not be floated without prior approval of the Commission.
18. Commission invariably takes a humanitarian view on the work that are necessitated due to man-made or natural calamities.
- a. Ex-gratia payments and gratuitous relief in the aftermath of a disaster can be given directly to the persons affected at the current rates/scales of assistance presently in force, under intimation to the Commission. No change in the extant and prescribed scales of payments, however, shall be made in the existing rates/scales without prior permission of the Commission.
  - b. Payment directly to the hospitals from CM's/PM's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries) will be permissible without reference to the Commission.
  - c. Emergent relief works and measures that are aimed to mitigate the hardships, directly and solely, of the persons affected in a disaster may be taken up under intimation to the Commission.
  - d. However, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters like repair of embankments, water channels etc. can be taken up only with prior permission of the Commission.
  - e. Also, an area shall not be declared drought/flood affected or any such calamity affected without prior approval of the Commission. The extent of area already declared to be calamity-affected cannot be expanded without prior approval of the Commission.
  - f. Similarly, any selective assistance to a group of persons from the PM's or the CM's Relief Fund will require prior approval of the Commission.

- 19. The medical assistance under PM's/CM's Relief Fund for various treatment/operation, like heart surgery, kidney transplantation, cancer treatment etc. which are time bound in nature and can't be postponed without endangering patient's health may be released, provided selection of beneficiaries/patients are done by the concerned Government Officials/Head of the concerned Private Hospitals.
- 20. The process required for the decision on the power tariff may be continued by the State Electricity Regulatory Commission. However, tariff award shall be made only on the completion of poll in the relevant State, i.e. after the poll date/dates in that State.
- 21. The following type of activities will require prior permission of the Commission:
  - a. New works and project cannot be taken up from discretionary funds of whatever nature. Discretionary fund, in this context, includes funds, which are provided for in the budget in a generic manner and for which no identified and sanctioned project exists prior to Model Code of Conduct coming into effect.
  - b. Proposals for revival of sick PSUs, governmental takeover of enterprises etc. (or any policy decision on similar lines) cannot be taken up.
  - c. Fresh auctions of liquor vendis etc. cannot be held even if the annual auction time falls within the Model Code of Conduct period. Where necessary, the government should make interim arrangements as provided in their respective laws.
  - d. Area of operation of any existing project/scheme/programme cannot be extended or expanded.
  - e. No land allocation shall be made by the government to any entity, whether individual or an enterprise.
  - f. Signing a MOU or an agreement where the government is a party will also require prior clearance by the Commission.
- 22. Regular recruitment/appointment or promotion through the UPSC, State Public Service Commissions or the Staff Selection Commission or any other statutory authority can continue. Recruitments through non-statutory bodies will require prior clearance of the Commission.
- 23. While starting any work (including any relief work) or developmental activity no formal function shall be held involving any political functionary. As a matter of good practice, normal functions and publicity even with the presence of official functionaries should be kept to the minimum.

- 05/37  
(11)
24. Where works are to be undertaken or functions are to be held in fulfillment of international commitments, prior concurrence of the Commission shall be taken.

### III. Implementation of drought relief work

The Commission has been receiving various representations from the State Governments regarding the modalities of implementing relief work in areas which have been declared as "drought affected" in the respective States. The Commission after taking into account all relevant factors, directs the following:-

- (i) The drought relief works by way of immediate relief measures to be taken up by the State Governments shall only be in the areas which have been declared as "drought affected" within the parameters laid down under the guidelines for managing of Calamity Relief Fund by the Central Government. No new areas are to be added to the existing list of such "drought affected" areas after the announcement of elections. Addition of any additional area/village will only be subject to obtaining prior concurrence of the Commission after following the due procedure laid down for seeking assistance under the Calamity Relief Fund/ National Relief Fund laid down by the Government of India for operation of such funds.
- (ii) To provide immediate relief in the areas declared as drought affected, the Commission has provisionally approved the following measures:
  - (a) Provision of drinking water by way of water tankers.
  - (b) Digging of bore-wells as well as dug-wells in scarcity areas on account of drying of the existing bore-wells/dug-wells.
  - (c) Provision of rice/wheat at prescribed rates for distribution among the destitute without support and who cannot go for work as per mechanism already prescribed in the Calamity Relief Fund Scheme.
  - (d) Provision of fodder for cattle.
  - (e) New works on wage employment (food for work etc.) where such existing works have been completed.
- (iii) No minister of the Government or a political functionary will be associated in the management of the drought relief operations in any capacity, supervisory or otherwise, during period of operation of the model code of conduct.
- (iv) The entire relief operation would be taken up by the Division, District and Taluka/sub-District Administration without involving elected representatives and/or non-officials at any level.

### On Transfers and posting of officials

(1) No officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-

- (i) if she/he is posted in her/his home district
- (ii) if she/he has completed three years in that district during last four (4) years or would be completing 3 years. The three years period shall be reckoned backwards from last day of the month of end of the term of Legislative Assembly of the State. While calculating the period of three years, promotion to a post within the district is to be counted.

### (2) Applicability

2.1 District Officers: - These instructions shall cover not only officers appointed for specific election duties like DEOs, Dy. DEOs, RO/AROs, EROs/AEROs, officers appointed as nodal officers of any specific election works but also district officers like ADMs, SDMs, Dy. Collector/Joint Collector, Tehsildar, Block Development Officers or any other officer of equal rank directly deployed for election works.

2.2 Officers other than District Officers: - These instructions shall also cover the officers deputed in Municipal Corporations and Development Authorities, etc.

2.3 Police Officers: - These instructions shall be applicable to the police department officers such as Range ADGs/IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub-Divisional Head of Police, SHOs, Inspectors, Sub-Inspector, Ris / Sergeant Majors or equivalent ranks, who are responsible for security arrangement or deployment of police forces in the district at election time. The police officials who are posted in functional departments like computerization, special branch, training, etc. are not covered under these instructions.

Following shall be followed:

- (i) The Police Sub-Inspectors and above should not be posted in their home district.
- (ii) If a Police Sub-Inspector has completed or would be completing a tenure of 3 years out of four years on or before the cutoff date in a police sub-division, then he should be transferred out to a police sub-division which does not fall in the same AC. If that is not possible due to small size of district, then he/she should be transferred out of the district.

05/39

2.4 Prohibition and Excess Officers: Further these instructions shall also be applicable to officers of the Prohibition and Excise Department of the State of the rank of Sub-Inspector and above.

**(3) Ban on transfer/posting of election related officers-**

During the period of implementation of Model Code of Conduct, there shall be a total ban on the transfer of all officers/officials connected with the conduct of the election. These include but are not restricted to:-

- (i) The Chief Electoral Officer and Additional/Joint/Deputy Chief Electoral Officers;
- (ii) Divisional Commissioners;
- (iii) The District Election Officers, Returning Officers, Assistant Returning Officers and other Revenue Officers connected with the Conduct of Elections;
- (iv) Officers of the Police Department connected with the management of elections like range IGS and DIGs, Senior Superintendents of Police and Superintendents of Police, Sub-divisional level Police Officers like Deputy Superintendents of Police and other Police officers who are deputed to the Commission under section 28A of the Representation of the People Act, 1951;
- (v) Other officers drafted for election works like sector and zonal officers, Transport cell, EVM cell, Poll material procurement & distribution cell, Training cell, Printing Cell etc. Senior officers, who have a role in the management of election in the State, are also covered by this direction.
- (vi) The transfer orders issued in respect of the above categories of officers prior to the date of announcement but not implemented till the time when model code came into effect should not be given effect to without obtaining specific permission from the Commission.
- (vii) This ban shall be effective till the completion of the election process.
- (viii) In those cases where transfer of an officer is considered necessary on account of administrative exigencies, the State Government may, with full justification, approach the Commission for prior clearance.
- (ix) No appointments or promotions in Government / Public Undertakings shall be made during this period, without prior clearance of the Commission.

**V. On Misuse of Official Machinery**

1. Official vehicles cannot be used for electioneering work. Official Vehicles include all vehicles belonging to



- o Central and State Government,
- o Public Sector Undertakings of the Central and State Government,
- o Joint Sector Undertakings of Central and State Government,
- o Local Bodies, Municipal Corporations, Municipalities,
- o Marketing Boards (by whatever name known),
- o Cooperative Societies,
- o Autonomous District Councils, or
- o Any other body in which public funds, howsoever small a portion of the total, are invested, and also
- o Vehicles belonging to the Ministry of Defence and the Central Police Organizations under the Ministry of Home Affairs and State Governments.

2. It is open for a minister of the Union or State to make private visits using his or her private vehicle(s). For such private visits, the official personal staff of the ministers shall not accompany them. However, if a Minister is traveling in some emergent situation, out of his HQ on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary concerned of the Department to the Chief Secretary of the state where the Minister intends to visit, with a copy to the Commission. During such tour, the Chief Secretary may provide the Minister with Government vehicle and accommodation and other usual courtesies for his official trip. However, immediately preceding or during or in continuation of such an official tour, no minister can carry out or combine any election campaign or political activity. The Commission will keep watch on such arrangements in due consultation with its Chief Electoral Officer.

3. No Minister, whether of union or state, will summon any election related officer of the constituency or the State, for any official discussions during the period of elections commencing with the announcement of the elections. Only exception will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, in connection with failure of law and order or a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervising review/salvage/relief and such like purpose.

4. Ministers are entitled to use their official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.

05/41

5. Ministers, whether of the Union or State, shall not combine in any manner their official tour with election work.

6. Whether on a private or official visit, no pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind shall be used by any political functionary, even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. This is applicable whether the vehicle is government owned or private owned.

7. Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules, and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided there-under.

8. During the period when Model Code of Conduct is in force in connection with General Election to the Lok Sabha/State Legislative Assemblies, all references of Ministers, Politicians or Political Parties available on Central/State Government's official website highlighting their achievements but eulogizing the same as personal achievements of Politicians/Ministers shall be taken off/purged off. During bye-elections, these instructions may be confined to only those Politicians/Ministers, etc. who themselves become candidates at such bye-elections.

**VI. Display of the photographs, calendars etc. of national leaders and prominent personalities in the government offices/premises, etc.**

1. The photographs and images of the political functionaries, who deep influence on the minds of electors and many of whom are still active in public life and may even be contesting the current general elections, should not be displayed in the government buildings and premises as that would have the effect of disturbing the level playing field vis-à-vis the political functionaries of other parties and candidates.

2. While the photographs of Prime Minister, Chief Ministers, Ministers and other political functionaries should not be displayed, this instruction, however, is not applicable with regard to the images of national leaders, poets, and prominent historical personalities of the past, and the President of India and the Governors. In case of any doubt in this regard regarding removal of any photograph or images, the issue may be referred to the Chief Electoral Officer of the State/Union Territory concerned before taking action in the matter.

Meeting of Local Bodies – Panchayats, Municipalities, etc.

1. A Writ Petition No. 4766(W) of 2011 (Shri Sujit Roy Vs the State of West Bengal & Others) was filed before the Hon'ble High Court of Calcutta seeking a declaration that no meeting of the Councilors of Kulti Municipality should be held during the period when Model Code of Conduct is in force.
2. The Hon'ble High Court, vide its order dated 11.03.2011, dismissed this Petition with the observation that the question would be for the Commission to decide and further directed that copy of the order be communicated to the Commission. Accordingly, a copy of the order of the Hon'ble High Court was referred to the Commission.
3. The Commission, after considering the matter, decided that there would be no objection on its part to the holding of the statutory meetings, which cannot be avoided by the Municipalities and Panchayats and other local bodies, subject to the condition that no new policy decisions and announcements shall be made in such meetings till the elections are over and only the decisions related to routine day-to-day management issues, and on emergency issues may be taken in such meetings.

VIII. Briefing of CM/HM by police officers

1. The security briefings of Chief Minister or the Home Minister when considered essential should be undertaken by the Home Secretary or the Chief Secretary, who in turn should be briefed by the police agencies. In case where police agency's/official's presence is considered essential, the Chief Secretary/Home Secretary may require the police agency/official to be present in such briefings.
2. The spirit behind the Commission's instruction is to safeguard a free, fair and transparent election and provide a level playing field to all political parties as also to ensure that there is no scope for public complaints that the political executive/government of the day is misusing the government machinery for political purpose. These instructions should, however, not be construed as any restriction to any security related activity of the law-and-order enforcing agencies. Therefore, in situations where it is so warranted, the law-and-order enforcing agencies should not take the plea of ECI instructions for any inaction or delay in action to be taken by them. Whatever is required under the circumstances, including informing the political executives by the DGP and taking directions from them, should be undertaken by the police agencies in the bonafide performance of their duty or exercise of their authority.

## IX. Misuse of free travel passes

1. Instances have come to the notice of the Commission where the free passes issued by the Railways and the Government Airlines have been misused to travel to and from the States/ constituencies/areas having the elections. Issue of such passes enabled the holders to travel round the country free of cost and participate in election related activities and thus attempt to vitiate the holding of free and fair elections.
2. The Commission has decided that such activities should be stopped. Accordingly, the Commission has directed that in future no golden passes, free passes, concessional passes or any other types of passes be issued or allowed to be used for travel to and from the states/constituencies/area going to the polls during general elections/bye-elections. This ban will apply from the date of announcement of the general election/bye-election till the declaration of results.
3. No one shall be exempted from the ambit of the aforesaid ban. The only exception will be in the case of tour operators and travel agents.

## X. Permission for allotment of liquor vends/finalization of wholesale liquor sale /major auctions relating to Tendu leaves, etc.

1. Each State has enacted a separated State Excise Laws governing the allotment of liquor vends. From the references received in the Commission, it is observed that varying models exist in different States for the sale of liquor through the venders. In some States/UTs the State Govt. itself sells liquor through the outlets of the State-run corporation/undertaking. In some other States, supplies liquor to the retail venders who are selected on the basis of applications by the Excise Department. There are also States where liquor contracts are awarded either at the State level or at the district level directly to the liquor venders through the system of tenders or by draw of lots on the price fixed by the Govt.
2. The contracts are annually awarded for the financial year. Some of the State Excise laws contain an enabling provision for extension by the Government of the contract for some period beyond the close of the financial year, whereas in some others, no such enabling provision is made in the existing law.
3. In view of the above position, the Commission has directed that the following procedure may be followed in the matter of allotment of liquor vends, during the period of operation of the Model Code of Conduct -

- (i) Where the extant Excise Laws of a State empower the State Govt. or the authorities thereunder to make an interim arrangement beyond the current financial year, pending arrangement, such interim arrangement may be made with the concerned contractor/vendors on the existing terms and conditions.
- (ii) Where no such enabling provision is available in the existing Excise Laws, the State Govt. may go ahead with the normal practice followed in the previous years strictly in accordance with the existing laws for the grant of new licenses/contracts for the ensuing financial year.

4. In all cases where major auctions etc. are to be held relating to matters such as tendu leaves and other such cases, they should be put off till the last date of completion of elections in the concerned areas and the State Government should make interim arrangements where unavoidably necessary.

**XI. Presentation of Budgets**

1. The Commission would like to point out the prevalent convention that is followed in most of the States is that instead of presenting full budget, only a vote on account is taken for 3-4 months in cases where a General Election is imminent or when the process of General Election has been announced and the Model Code of Conduct is in operation. It contributes to a healthy democratic practice.
2. The Commission, in deference to the State Legislatures, and having regard to such a convention and propriety, would not like to lay down a precept or prescribe a course of action. However, it would advise, in the case of States that are going for Assembly polls, that a vote on account should be taken.

**XII. Waiving off of recoveries and bad debts by State Government financial institutions during election period.**

1. State Government institutions of several types are nowadays engaged in commercial and banking activities. The Supreme Court has observed in *Kirpal Singh Vs Uttam Singh* (AIR 1986 SC 300) that 'Nowadays the activities of the State are so manifold and prolific that the State has been forced, in the interests of better management and administration and in order to further the Directive Principles of State Policy, to set up various Corporations which are but mere instrumentalities of the State'. The Supreme Court has further observed in *Satrucharya Chandrasekhar Vs Vyicherla Pradeep Kumar* (AIR 1992 SC 1959) that the incorporation of a body corporate may suggest that it is independent of the government, but that would not be conclusive of the fact, as, sometimes, the

05/45

form may be that of body incorporate independent of the government, but, in substance, it may just be an alter ego of the government. Accordingly, several State Government financial institutions are undertaking commercial and banking activities, like, granting loans, rescheduling the recovery of loans and, in many cases, writing off bad loans or defaulted loans. Whereas this normal activity of such State Government institutions may go on during non-election period these activities when the election process is underway, sometimes, get vitiated and are looked upon with suspicion by political parties, candidates and general public. It cannot be gainsaid that the party in power which wields considerable influence over the government of the day and which is also contesting the elections to get back to power, can get bad or defaulted loans to be written off, giving rise to allegations that the person or the business house whose loan is being written off makes contributions to the party, offers to help them in their election campaign. There could also be the other abuse of a flurry of loaning activities of a populist nature aimed to garner votes, which would, in the long run, affect the health of the loaning institution itself.

2. Keeping the above ground position and the realities of the situation in view, the Commission is of the considered view that all financial institutions funded, partly or wholly, by the State Governments should not take recourse to writing off loans advanced to any individual, company, firm, etc. during the period when the Model Code of Conduct is in force, without the prior concurrence of the Commission. Similarly, the financial limits that these institutions have to adhere to while granting or extending loans should not be enhanced by issuing of loans indiscriminately to beneficiaries when the Model Code of Conduct is in force.

### XIII. Ban on Video Conferencing

No video conferencing should take place between the Chief Ministers of the States, Ministers and other political functionaries of the Union and State Governments and the officials individually or collectively, after the announcement of elections and from the date from which Model Code of Conduct comes into force in a state or the constituency.

However, in the immediate aftermath of any calamity of significant scale/magnitude, if video conferencing is considered essential, then Chief Minister or Minister concerned may hold one video conferencing with the officials concerned subject to the following conditions:-

- (i) The CEO of the State shall be approached by the Department concerned and approval of the CEO should be obtained before holding the VC; for any subsequent VC, permission from the Commission shall be obtained;

- (ii) Only the Collector/District Magistrate and senior officials in charge of the relief in connection with the natural calamity of the area concerned alone shall be called to attend the video-conferencing;
- (iii) No issue other than rescue/relief and other aspects connected to the calamity shall be discussed in the VC.
- (iv) No publicity whatsoever shall be given for the VC, either before or after the VC.
- (v) The VC should not be open to media;
- (vi) An Audio/Video recording of the proceedings of the VC shall be maintained by the Department concerned and a copy of the same given to the CEO;
- (vii) No announcement or promise of any grant, assistance in cash or kind, and no statement of political nature or announcement capable of influencing the electors shall be made through the VC.
- (viii) A representative of the CEO will be present during the VC.

**XIV. Use of Rest Houses, Dak Bungalows and other Government accommodation**

Rest houses, Dak bungalows or other Government accommodation shall not be monopolized by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda.

It shall be ensured that no functionary can use the Circuit House, Dak bungalow to set up campaign office as the Circuit Houses/Dak bungalows are only for temporary stay (boarding and lodging) during transit of such functionaries.

The Commission has further directed that:

- (i) Even casual meeting by Members of political parties inside the premises of the Government owned guesthouse etc. are not permitted and any violation of this shall be deemed to be a violation of the Model Code of Conduct.
- (ii) Only the vehicle carrying the person allotted accommodation in the guest house and not more than two other vehicles, if used by the person, will be permitted inside the compound of the Guest House.
- (iii) Rooms should not be made available for more than 48 hours to any single individual.

However, 48 hours before the close of poll in any particular area, there will be freeze on such allocations till completion of poll or re-poll. The Commission directs that the Chief Electoral Officers will oversee strict and impartial implementation of these guidelines.

05/47

Accommodation in Government Guest houses / Rest Houses or Guest Houses of Public Sector Undertakings of the Centre or State Government in the States (or the districts) where elections have been announced or are taking place can be given to the political functionaries who are provided security by the State in Z scale or above or equivalent by various State Governments under provisions of their laws, on equitable basis. This shall be subject to condition that such accommodation is not already allotted or occupied by election related officials or observers. Such political functionaries shall not carry out any political activity while staying in the Government Guest Houses / Rest Houses or Guest Houses of Public Sector Undertakings as mentioned above.

**XV. Restrictions on use of Government Guest Houses, Bhawans and State Sadans located at Delhi for holding of political parties meeting regarding election purposes**

The Commission has taken note of utilization of various State Guest Houses, Bhawans and Sadans at Delhi for election related activities by some of the political parties. These include holding of party meeting press conference and consultations. The Commission after taking all factors into account has decided that no part of such premises is utilized for any political activities of the kind already mentioned. The Resident Commissioners and Liaison Officers of all States and Union Territories at Delhi are hereby instructed to ensure that no violation in this regard is made.

There are, however, no restrictions for use of Bhawans for genuine requirements for accommodation of officers and other visitors including political functionaries purely for purposes of their official tour to Delhi. The Resident/Liaison Commissioners are also advised that allocation of rooms should be done in a fair and equitable manner and that it would be improper to provide entire floors and large blocks for exclusive use and for extended period by political functionaries and parties.

**XVI. Other Do's and Don'ts for the guidance of the Candidates and Political Parties to be observed from the announcement of an election and until the completion of process of election**

The Commission has drawn up a list of 'Do's' and 'Don'ts' to be followed by candidates and political parties after the announcement of elections and till the completion of the process of elections. The Commission has directed that this be given the widest possible publicity and its contents brought to the knowledge of all candidates and political parties including in the official language of the State.

It must be clearly brought to the notice of candidates and political parties that the list of Do's and Don'ts is only illustrative and not exhaustive and is not intended to substitute or modify other detailed directions/instructions on the above subjects, which must be strictly observed and followed.



On-going programmes, which actually started in the field before the announcement of elections may continue.

- (2) Relief and rehabilitation measures to the people in areas affected by floods, drought, pestilence, and other natural calamities, can commence and continue.
- (3) Grant of cash or medical facilities to terminally or critically ill persons can continue with appropriate approvals.
- (4) Public places like maidans must be available impartially to all parties/contesting candidates for holding election meetings. So also, use of helipads must be available impartially to all parties/contesting candidates, to ensure a level playing field.
- (5) Criticism of other political parties and candidates should relate to their policies, programme, past record and work.
- (6) The right of every individual for peaceful and undisturbed home life should be fully safeguarded.
- (7) The local police authorities should be fully informed of the venue and time of the proposed meetings well in time and all necessary permissions taken.
- (8) If there are any restrictive or prohibitory orders in force in the place of the proposed meeting, they shall be fully respected. Exemption, if necessary, must be applied for and obtained well in time.
- (9) Permission must be obtained for the use of loudspeakers or any other such facilities for the proposed meetings.
- (10) The assistance of the police should be obtained in dealing with persons disturbing meetings or otherwise creating disorder.
- (11) The time and place of the starting of any procession, the route to be followed and the time and place at which the procession will terminate should be settled in advance and advance permissions obtained from the police authorities.
- (12) The existence of any restrictive orders in force in the localities through which the procession has to pass should be ascertained and fully complied with. So also, all traffic regulations and other restrictions.
- (13) The passage of the procession must be without hindrance to traffic.

05/49

- (14) Cooperation should be extended to all election officials at all times to ensure peaceful and orderly poll.
- (15) All Workers must display badges or identity cards.
- (16) Unofficial identity slips issued to voters shall be on plain (white) paper and not contain any symbol, name of the candidate or name of the party.
- (17) Restrictions on plying of vehicles during the campaign period and on poll day shall be fully obeyed.
- (18) (Except voters, candidates and their election/polling agents), only persons with a specific valid authority letter from the Election Commission can enter any polling booth. No functionary however highly placed (e.g. Chief Minister, Minister, MP or MLA etc.) is exempt from this condition.
- (19) Any complaint or problem regarding the conduct of elections shall be brought to the notice of the observer appointed by the Commission/Returning Officer/Zonal/Sector Magistrate/Election Commission of India.
- (20) Directions/orders/instructions of the Election Commission, the Returning Officer, and the District Election Officer shall be obeyed in all matters related to various aspects of election.
- (21) Do leave the constituency after the campaign period is over if you are not a voter or a candidate or candidate's election agent from that constituency.

#### DON'Ts

- (1) Any and all advertisements at the cost of the public exchequer regarding achievements of the party/Government-in power is prohibited.
- (2) No Minister shall enter any polling station or the place of counting, unless he or she is a candidate or as a voter only for voting.
- (3) Official work should not at all be mixed with campaigning/electioneering.
- (4) No inducement, financial or otherwise, shall be offered to the voter.
- (5) Caste/communal feelings of the electors shall not be appealed to.
- (6) No activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes, communities or religious or linguistic groups shall be attempted.
- (7) No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties shall be permitted to be criticized.

- Other parties or their workers shall not be criticized based on unverified allegations or on distortions.
- (9) Temples, Mosques, Churches, Gurudwaras or any place of worship shall not be used as places for election propaganda, including speeches, posters, music etc., on electioneering.
  - (10) Activities which are corrupt practices or electoral offences such as bribery, undue influence, intimidation of voters, personation, canvassing within 100 meters of a polling station, holding of public meetings during the period of 48 hours ending with the hour fixed for the close of the poll and conveyance of voters to and from polling stations are prohibited.
  - (11) Demonstrations or picketing before the houses of individuals by way of protesting against their opinion or activities shall not be resorted to.
  - (12) Subject to the local laws, no one can make use of any individual's land, building, compound wall, vehicles etc. for erecting flag staffs, putting up banners, pasting notices or writing slogans etc. without specific permission of the owner (to be shown to and deposited with the District Election Officer).
  - (13) No disturbances shall be created in public meetings or processions organized by other political parties or candidates.
  - (14) Processions along places at which another party is holding meetings shall not be undertaken.
  - (15) Processionists shall not carry any articles, which are capable of being misused as missiles or weapons.
  - (16) Posters issued by other parties and candidates shall not be removed or defaced.
  - (17) Posters, flags, symbols or any other propaganda material shall not be displayed in the place being used on the day of poll for distribution of identity slips or near polling booths.
  - (18) Loudspeakers whether static or mounted on moving vehicles shall not be used either before 6 a.m. or after 10p.m. and without the prior written permission of the authorities concerned.
  - (19) Loudspeakers shall also not be used at public meetings and processions without the prior written permission of the authorities concerned. Normally, such meetings/processions will not be allowed to continue beyond 10.00 p.m. in the night and will be further subject to the local laws, local perceptions of the security arrangements of the area and other relevant considerations like weather conditions, festival season, examination period, etc.
  - (20) No liquor should be distributed during elections.

(21) On the day of the poll, no person who has been assessed to be having a security threat and therefore given official security shall enter the vicinity of a polling station premise (within 100 meters) with his security personnel. Further, on the day of the poll no such person shall move around in a constituency with his security personnel. If the person provided with official security happens to be a voter also, then he or she shall restrict his / her movement - accompanied by security personnel, to voting only.


(22) No person who has been assessed to be having a security threat and therefore provided official security or who has private security guards for himself, shall be appointed as an election agent or polling agent or counting agent.

NOTE: The above list of Do's and Don'ts is only illustrative and not exhaustive and is not intended to substitute any other detailed orders, directions/instructions on the above subjects, which must be strictly observed and followed.

The clarification/approval of the Election Commission of India/Chief Electoral Officer of your state should be obtained in case of doubt.

The above instructions of the Commission shall be brought to notice of all concerned for strict compliance. Please acknowledge the receipt of this letter.

Yours faithfully,

  
(NARENDRA N. BUTOLIA)  
SR. PRINCIPAL SECRETARY