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IN THE HIGH COURT OF MADHYA PRADESH,

PRINCIPAL SEAT AT JABALPUR, M.P.

W.P. (PIL) No. 16479 /2026

IN THE MATTER OF:

Kamal Kumar Rathi

.....PETITIONER

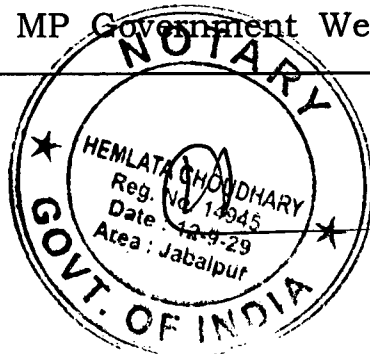
VERSUS

The State of Madhya Pradesh & Ors.

....RESPONDENTS

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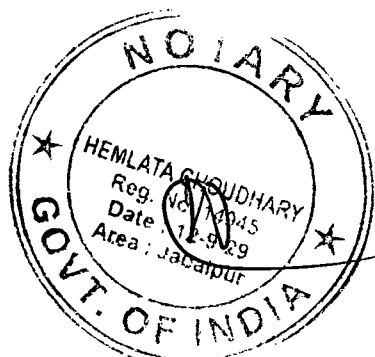
PLACE: JABALPUR

HARPREET SINGH GUPTA

DATE: 04.05.2026

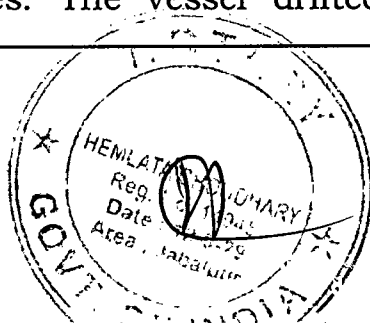
COUNSEL FOR PETITIONER

03 MAY 2026



IN THE HIGH COURT OF MADHYA PRADESH,**PRINCIPAL SEAT AT JABALPUR, M.P.****W.P. (PIL) No. 160179/2026****IN THE MATTER OF:****Kamal Kumar Rathi****.....PETITIONER****VERSUS****The State of Madhya Pradesh & Ors.****.....RESPONDENTS****REGULAR PUBLIC INTEREST LITIGATION****CHRONOLOGY OF EVENTS (UNDER RULE 16(1) CHAPTER-X) OF THE
HIGH COURT OF MADHYA PRADESH RULES, 2008.**

DATE	EVENT
29.04.2026	The India Meteorological Department (IMD) issued an advance weather warning of strong winds and rough weather conditions for the Jabalpur region. Despite this statutory warning, the Madhya Pradesh Tourism Department failed to issue any circular, advisory or suspension of cruise operations for the following day.
30.04.2026 (~5:00 PM)	A tourist cruise boat operated by the Madhya Pradesh Tourism Department overturned near Khamariya Island in the Bargi Dam reservoir, Jabalpur district. The vessel was carrying approximately 43 to 47 passengers, though only 29 tickets were formally issued, indicating gross overloading. The boat was caught in a sudden and severe storm with high-velocity winds and surging waves. The vessel drifted approximately 300 metres

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	from shore before sinking to a depth of nearly 20 feet.
30.04.2026 (Post-incident)	Rescue and recovery operations were immediately launched. 28 passengers were rescued alive. Reports confirmed that life jackets were NOT distributed before departure; a survivor, Ms. Sangeeta Kori from Delhi, confirmed life jackets were handed out only after water had already begun entering the vessel.
01.05.2026	The death toll rose to 9, including a mother and her four-year-old child whose bodies were recovered locked in a final embrace. Four passengers, including children, remained missing. The State Government announced a high-level inquiry but did not issue any blanket suspension of water tourism operations across Madhya Pradesh.
As of date of filing	The Petitioner, acting in public interest, has filed this Public Interest Litigation before this Hon'ble Court, inter alia seeking immediate suspension of all tourist boat operations across Madhya Pradesh pending safety audit and certification, comprehensive remedial directions, and framing of State-level safety rules.

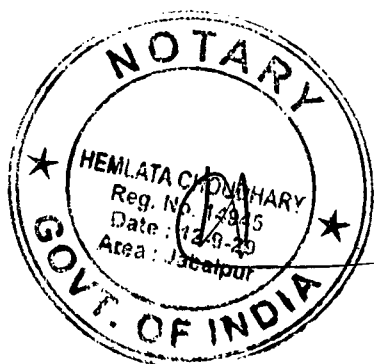
H/S

PLACE: JABALPUR

HARPREET SINGH GUPTA

DATE: 4 .05.2026

COUNSEL FOR PETITIONER



09 MAY 2026

IN THE HIGH COURT OF MADHYA PRADESH,

PRINCIPAL SEAT AT JABALPUR, M.P.

W.P. (PIL) No. 16479/2026

IN THE MATTER OF:

Kamal Kumar Rathi

S/o Shri Ram Ratan Rathi

Aged about 55 years *Occupation - Real Estate Consultant*

R/o E2/48, Arera Colony,
Bhopal, M.P. 462016

Presented on 04-05-26

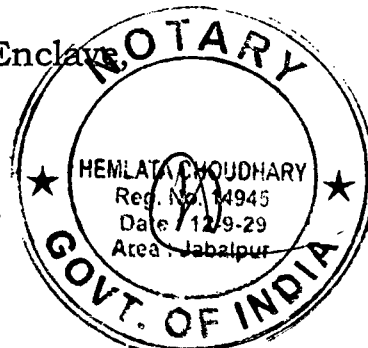
By H. S. Gupta

H. S. Gupta
Presentation/Receiving Assistant

.....**PETITIONER**

VERSUS

- 1. The State of Madhya Pradesh,**
Through its Chief Secretary,
Vallabh Bhawan, Bhopal, 462004.
- 2. The Union of India,**
Through the Secretary,
Ministry of Ports, Shipping
and Waterways,
Transport Bhawan-1, Parliament Street
New Delhi, 110001.
- 3. The M.P. Tourism Department,**
Through its Principal Secretary,
6th Floor, Lili rade Wing,
Jahangirabad, Bhopal, 462008.
- 4. The Madhya Pradesh Tourism Board,**
through its Managing Director,
6th Floor, Lili rade Wing,
Jahangirabad, Bhopal, 462008.
- 5. The Inland Waterways Authority of India (IWAI),**
through its Chairman,
A-13, Sector - 1, Noida,
Uttar Pradesh, 201301.
- 6. The National Disaster Management Authority,**
Through its Secretary,
NDMA Bhawan, A-1, Safdarjung Enclave,



New Delhi - 110029

7. The Collector, District Jabalpur
Collectorate Campus Road,
Near High Court Square,
Civil Lines, Jabalpur, 482001

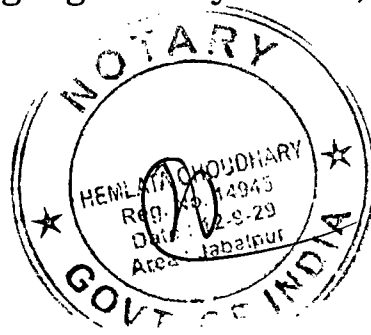
8. The Superintendent of Police,
Main Road, Police Lines,
Civil Lines, Jabalpur, 482002

.....**RESPONDENTS**

REGULAR PUBLIC INTEREST LITIGATION

**I. PARTICULARS OF THE CAUSE/ORDER AGAINST WHICH THE
PETITION IS MADE:**

- i. Date of the Order : NIL
- ii. Passed in : NIL
- iii. Passed by : NIL
- iv. **Subject Matter in Brief:** This petition in the nature of PIL arises from a catastrophic tragedy that befell innocent tourists at the Bargi Dam reservoir, Jabalpur, Madhya Pradesh on 30th April 2026. In the said incident a tourist cruise boat operated by the Madhya Pradesh Tourism Department overturned in the backwaters of the Narmada River, resulting in the death of at least 9 persons including children, with 4 still missing as of the date of this petition. The tragedy has exposed a systematic failure of the State Government and its Tourism Department to comply with binding legal safety norms, and reflects a callous disregard

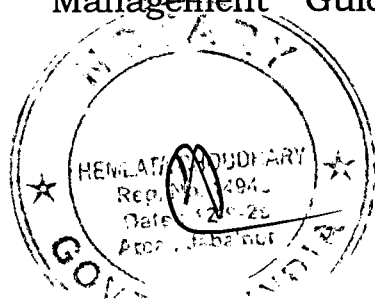


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for human life in the pursuit of commercial tourism interests. The vessel was carrying about 43 to 47 passengers despite only 29 tickets being formally issued, indicating gross and deliberate overloading.

It is submitted that, Life jackets were not distributed before the commencement of the voyage and were handed out only after water had already begun entering the sinking vessel, rendering them wholly ineffective. It is further submitted that the India Meteorological Department had issued an advance weather warning of strong winds for the Jabalpur region a full 24 hours before the accident on 29th April 2026, which was completely ignored by the Tourism Department, which neither suspended operations nor issued any precautionary advisory.

The tragedy has exposed a systematic, multi-layered failure of governance at every level. The Madhya Pradesh Tourism Department, as the direct State operator of the cruise, violated its constitutional obligation under Article 21 of the Constitution of India to protect the lives of passengers using a State-controlled service. The state also acted in direct violation of the mandatory provisions of the Inland Vessels Act, 2021 including the prohibition on overloading, the mandatory pre-voyage distribution of life jackets, and the requirement of a valid Certificate of Survey. The state also acted in clear violation of NDMA National Disaster Management Guidelines on Boat Safety, 2017, which



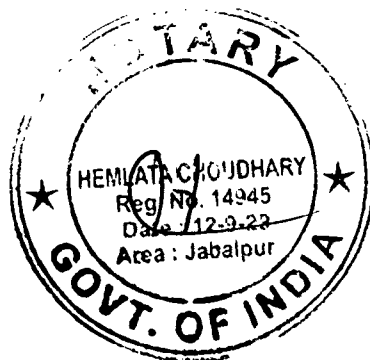
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expressly mandate weather-based suspension of operations, pre-departure safety briefings, provision of life-saving appliances for every passenger, and the stationing of Quick Reaction Teams at all water tourism ghats.

Compounding the gravity of the situation, the State of Madhya Pradesh has failed to frame State-level rules under the Inland Vessels Act, 2021, even after more than two years of its coming into force, thereby creating a complete accountability vacuum governing water tourism operations across the State.

It is submitted that very site of the tragedy the Bargi Dam is a designated Wetland under the MP Government Wetland list. By the virtue of it being a Wetland, the operation of cruise and motor-propelled boats therein has been expressly prohibited by the Hon'ble National Green Tribunal, Central Zone Bench, Bhopal, vide its order dated 12.09.2023 in OA/82/2022 (Dr. Shubhash C. Pandey v. State of M.P. and Ors.). Vide the said order, the Hon'ble Tribunal directed the Respondent authorities to ***"stop operation of Cruise and other motor propelled boats in Bhoj Wetland being Ramsar site and other wetlands forthwith."*** The said order of the NGT was upheld and affirmed by the Hon'ble Supreme Court of India vide its order dated 04.03.2024 in Diary Number 664/2024, dismissing the Respondent's appeal against it.

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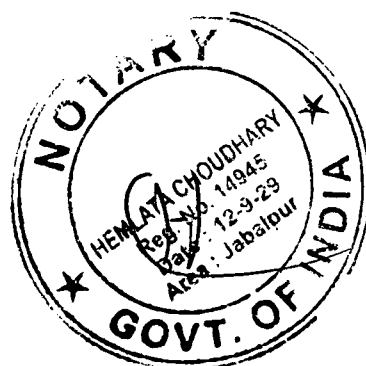


The continued operation of the cruise in violation of two binding judicial orders one of the NGT and of the Supreme Court renders the Respondent's conduct not merely negligent but refractory, and the deaths caused thereby the direct and foreseeable consequence of the State's willful non-compliance with the law.

The Petitioner accordingly approaches this Hon'ble Court seeking immediate suspension of all tourist boat operations across Madhya Pradesh pending a comprehensive safety audit, framing of State-level safety rules, and all other consequential reliefs in the interest of public safety and the right to life.

II. DECLARATION THAT NO SIMILAR PROCEEDING HAS BEEN PREVIOUSLY INSTITUTED IN ANY COURT, AUTHORITY OR TRIBUNAL:

The Petitioner hereby solemnly declares that no petition, suit or other proceeding on the same subject matter or arising out of the same cause of action as set out herein has been previously instituted by the Petitioner, in this Hon'ble Court or in any other Court, Tribunal or Authority, and no final decision has been rendered in any such proceeding. If any related matter is pending or has been decided, the same shall be brought to the notice of this Hon'ble Court at the earliest, once it comes to the knowledge of the Petitioner.



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III. DETAILS OF REMEDY EXHAUSTED:

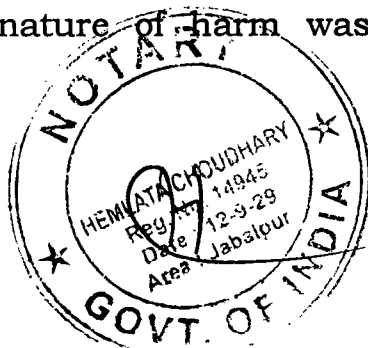
This is a Public Interest Litigation filed in exercise of the Petitioner's writ jurisdiction under Article 226 of the Constitution of India, seeking enforcement of fundamental rights guaranteed under Articles 21 and 14, and compliance with binding statutory provisions of the Inland Vessels Act 2021 and NDMA Guidelines 2017. The nature of the reliefs sought, being systemic and preventive in character, and implicating the State Government's own departments and agencies, renders alternative remedies before statutory authorities wholly inadequate and inefficacious. No alternate, efficacious remedy is available to the Petitioner.

IV. SOURCE OF INFORMATION:

The Petitioner herein received the information regarding the dreadful incident at Bargi Dam, vide various mediums including print media and electronic media, i.e. news channels and news papers.

V. NATURE/EXTENT OF INJURY CAUSED/APPREHENDED:

The incident involved a cruise vessel capsizing in the Bargi Dam area of Jabalpur (Narmada river region), resulting in catastrophic loss of life. As reported in the Dainik Bhaskar dated 02-05-2026, at least 9 persons perished in the tragedy, including 5 additional deaths reported subsequently, with 4 others still missing and feared dead. The injuries and fatalities were caused by drowning due to sudden and forceful submersion of the vessel in deep waters. The nature of harm was aggravated manifold by the



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complete absence of life jackets for passengers — life jackets were sealed inside the cabin and inaccessible during the emergency. Eyewitness accounts reveal that a mother, unable to secure a life jacket for her 4-year-old child, wrapped the child within her own jacket in a desperate bid to save him — tragically, neither survived. The apprehended injuries extend further, as multiple persons remain unaccounted for. The overcrowding of the vessel with passengers far exceeding its safe capacity, absence of any safety gear, and delayed rescue response — the rescue team arriving approximately 2 hours late — directly compounded the scale of death and injury, rendering the harm both grievous and irreversible.

VI. ISSUE RAISED WAS NEITHER DEALT WITH NOR DECIDED:

The Petitioner has not raised this issue before any court of law. To the best of the Petitioner's knowledge this has not been dealt with previously at the behest of any other petitioner.

VII. ANY REPRESENTATIONS, ETC. MADE:

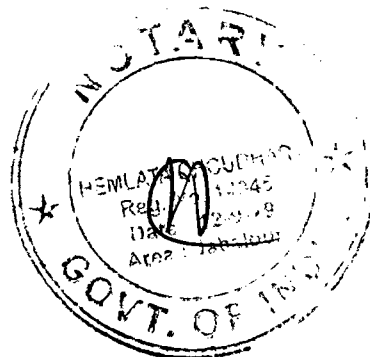
NA

VIII. DELAY, IF ANY, IN FILING THE PETITIONER AND EXPLANATION THEREFOR:

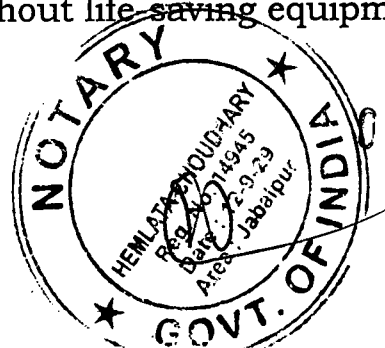
There is no delay in preferring this petition.

IX. FACTS OF THE INCIDENT:

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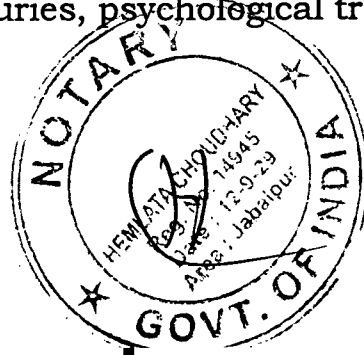


- a. That on 30th April 2026, at approximately 5:00 PM, a tourist cruise boat named “**Narmada Cruise**” operated by and under the direct management of the Madhya Pradesh Tourism Department overturned near Khamariya Island in the Bargi Dam reservoir, Jabalpur district, Madhya Pradesh. The Bargi Dam, constructed across the River Narmada, is one of the premier water tourism destinations in Madhya Pradesh. The copy of the news articles reporting the said incident, is attached herewith and marked as **Annexure P-1**.
- b. That the cruise was reportedly carrying between 43 to 47 passengers at the time of the accident, while only 29 tickets were formally issued. This stark discrepancy between the ticketed passengers and actual occupancy strongly indicates that the vessel was grossly and deliberately overloaded in blatant violation of its certified passenger capacity and in contravention of mandatory legal standards under the Inland Vessels Act, 2021. The vessel in question had a stated legal capacity of 60 persons, yet the failure to maintain ticketing records and the admission of excess passengers reflects a systemic breakdown of internal governance.
- c. That the vessel overturned after being caught in a sudden and severe storm accompanied by high-velocity winds and surging waves. The boat drifted approximately 300 meters from the shore before sinking to a depth of nearly 20 feet in the reservoir. Eye-witness accounts describe scenes of acute panic and distress aboard the sinking vessel, with passengers struggling in open water without life-saving equipment.



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- d. That crucially, as per news reports corroborated by multiple survivor testimonies, life jackets were NOT distributed to passengers before the voyage commenced. A survivor, Ms. Sangeeta Kori from Delhi, who was travelling with her family, confirmed that life jackets were handed out only after water had already begun entering the vessel, by which time it was far too late for orderly or effective use thereof. Several children and elderly passengers were on board the cruise without any personal protective flotation devices.
- e. That in a fact of singular and critical importance, the India Meteorological Department (IMD) had issued an advance weather warning of strong winds for the Jabalpur area on 29th April 2026, a full 24 hours before the accident. Despite this statutory warning, the Madhya Pradesh Tourism Department allowed cruise operations to proceed without any restriction, suspension, precautionary measures, or even cursory assessment of weather conditions on 30th April 2026. The IMD's Nowcast system is specifically designed to warn boat operators and waterways authorities of severe weather events.
- f. That as of 1st May 2026, the death toll has risen to 9 persons. Among the deceased are a young mother and her four-year-old child, whose bodies were recovered by divers from the depths of the reservoir locked in a final, heartbreaking embrace a haunting symbol of the State's gross failure to discharge its duty of care. Four passengers, including children, remain missing to date. Twenty-eight passengers were rescued alive, many of whom suffer from physical injuries, psychological trauma, and acute distress.



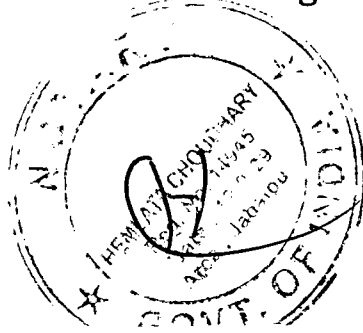
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- g. That the Bargi Dam cruise service has been operational since 2006 under the auspices of the Madhya Pradesh Tourism Department. At the site, 2 cruise boats, 1 houseboat and 1 mini cruise are operated. The cruise responsible for the accident had a stated capacity of 60 persons. Despite nearly two decades of operations and the known hazards of open water tourism, the Tourism Department had not ensured compliance with the Inland Vessels Act 2021, which came into force in 2022, by the time of the accident.
- h. That the State Government has ordered a high-level inquiry. However, no immediate, blanket suspension of all tourism water operations across Madhya Pradesh has been ordered, leaving hundreds of tourists who visit Bhedaghat, Pachmarhi, Hanuwantiya Island, and other water tourism sites at continued, imminent and unmitigated risk of a similar tragedy.

X. GROUND:

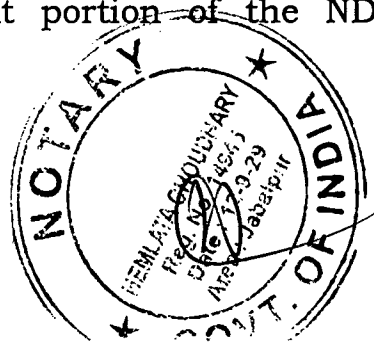
A. THE SAID PERILOUS ACTION OF THE RESPONDENTS IS IN CLEAR VIOLATION OF ARTICLE 21 OF THE CONSTITUTION OF INDIA GUARANTEED TO THE INDIVIDUALS, IN INDIA:

- i. That the right to life guaranteed under Article 21 of the Constitution of India imposes an affirmative obligation on the State to protect life from foreseeable hazards arising from the operation of State-controlled services. In the present case, the Madhya Pradesh Tourism Department a department of the State operated a vessel in blatant disregard of established and binding



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- life-safety norms, directly resulting in the preventable deaths of 9 citizens, including a young child. The State cannot simultaneously operate a commercial tourism service and disclaim its constitutional duty to ensure the safety of those who use that service.
- ii. That the Hon'ble Supreme Court of India has consistently held that the right to life under Article 21 includes the right to live with dignity, safety and freedom from preventable harm. In this regard the reliance shall be placed upon the decision of Hon'ble Supreme Court in, ***Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37***, wherein it held that the Government has an obligation to provide citizens with adequate facilities and safety and that failure to provide the same constitutes a violation of Article 21. In the present context, the State as operator of the cruise was under an identical obligation to ensure the safety of every passenger and its failure to do so constitutes a violation of Article 21.
- iii. That the continued operation of tourist water craft across Madhya Pradesh at Bhedaghat, Pachmarhi, Hanuwantiya and other sites, without demonstrated compliance with the Inland Vessels Act 2021 or the NDMA Guidelines, poses an ongoing and imminent threat to the right to life of tourists who visit these sites, warranting immediate judicial intervention. The Tourism Department failed to access, consult, or act upon this system, in direct violation of Chapter 2 of the NDMA National Disaster Management Guidelines on Boat Safety, 2017. The copy of the relevant portion of the NDMA National Disaster Management



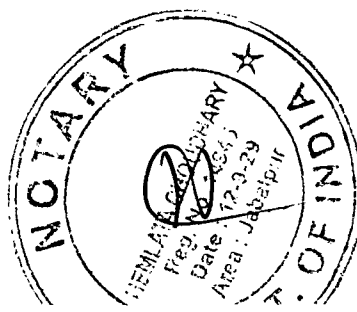
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Guidelines on Boat Safety, 2017, is attached herewith and marked as **Annexure P-2**.

- iv. That the right to life enshrined under Article 21 is the most sacrosanct of all fundamental rights and has been interpreted by the Hon'ble Supreme Court in a long line of judgments to include the right to a safe, dignified and secure existence. The right to life encompasses the right to safe public services, including safe public transportation and tourism services operated by the State or its instrumentalities. Where the State itself operates a service as the Madhya Pradesh Tourism Department does with the Bargi Dam cruise the State bears a positive, non-delegable constitutional obligation to ensure that the service does not expose citizens to reasonably foreseeable risk to their lives.
- v. That the deaths caused by the capsizing of the State-operated cruise constitute a direct violation of the right to life of the victims and an ongoing threat to the right to life of all tourists who continue to use water tourism facilities across Madhya Pradesh.

B. GROSS NEGLIGENCE AND DERELICTION OF DUTY BY THE STATE:

- i. That the Madhya Pradesh Tourism Department, as the direct operator of the cruise, owed a non-delegable duty of care to every passenger aboard the vessel. This duty encompassed:
- a. ensuring the seaworthiness and compliance of the vessel;
 - b. ensuring that passenger numbers did not exceed certified capacity;
 - c. ensuring pre-voyage distribution of life jackets;

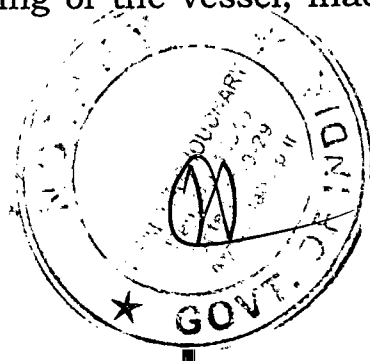


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- d. ensuring that operations were suspended in the event of adverse weather warnings; and
 - e. ensuring the presence of a trained and certified crew capable of managing emergencies.
- ii. That the Tourism Department failed in every single one of these duties: it permitted overloading; it allowed operations to proceed despite the IMD weather warning of 29th April 2026; it failed to distribute life jackets before the voyage commenced; it failed to conduct a pre-voyage safety briefing; and it failed to ensure the presence of adequate rescue infrastructure at the ghat. This constitutes gross negligence amounting to recklessness, which is actionable both as a constitutional wrong and as a violation of the Inland Vessels Act 2021 and NDMA Guidelines.
- iii. That the Jabalpur District Administration and the Superintendent of Police also failed in their independent statutory duty to inspect and regulate cruise operations. No competent authority verified overloading, life-saving equipment adequacy, or weather conditions before permitting the voyage to depart on 30th April 2026. This concurrent failure of multiple State authorities reflects a systemic and institutional breakdown.

C. THE SAID NEGLIGENT ACTION OF THE RESPONDENTS IS IN CLEAR AND DIRECT VIOLATION OF THE INLAND VESSELS ACT, 2021

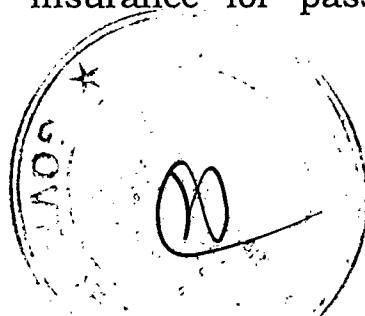
- i. That the Inland Vessels Act, 2021 has been in force since 2022. The overloading of the vessel, inadequate and untimely provision



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of life-saving equipment, and apparent absence of a valid Certificate of Survey constitute direct and flagrant violations of the mandatory provisions of this Act. The State Government, as the operator of the vessel, cannot claim ignorance of a Parliamentary statute mandatorily applicable to its own operations. The copy of the relevant portion of the Inland Vessels Act, 2021, is annexed herewith and marked as **Annexure P-3**.

- ii. That State of Madhya Pradesh has failed to frame State-level rules under the Inland Vessels Act, 2021, unlike Gujarat, which notified its State Inland Vessels Rules in 2024. This legislative inaction, over a period of more than two years since the Act came into force, constitutes a failure of the State's constitutional obligation to protect life, particularly when the State itself operates water vessels for commercial tourism.
- iii. That the absence of State-level rules has created an accountability vacuum, enabling the Tourism Department to operate vessel fleets across multiple water tourism sites in Madhya Pradesh without any applicable State framework governing safety standards, periodic inspection, crew certification, or emergency preparedness.
- iv. That this comprehensive legislation, which came into force in 2022 replacing the Inland Vessels Act 1917, imposes comprehensive and mandatory obligations on vessel operators including: mandatory survey and registration of all inland vessels; strict adherence to certified seating capacity limits; compulsory provision of approved life-saving appliances including life jackets for every passenger; absolute prohibition on overloading; mandatory insurance for passengers; and the right of State

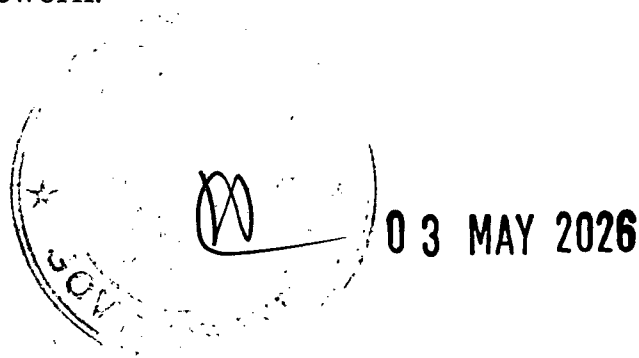


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Governments to detain, forfeit or remove from inland waters any vessel found carrying passengers beyond its permitted capacity. This Act impose penalties including fines ranging from Rs. 10,000 to Rs. 3 lakh and imprisonment up to 3 years for contraventions. The Act mandates that every vessel operating on inland waters must hold a valid Certificate of Survey issued by the competent authority. The Bargi Dam cruise apparently did not comply with several of these mandatory requirements.

D. GRAVE VIOLATION OF NDMA GUIDELINES ON BOAT SAFETY, 2017

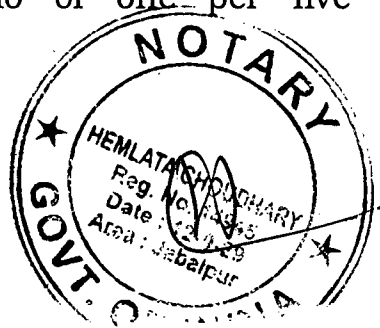
- i. That the NDMA's National Disaster Management Guidelines on Boat Safety (September 2017) were specifically formulated to prevent tragedies of the precise nature of the Bargi Dam incident tragedies caused by overloading, absence of life jackets, and operation during adverse weather. The entire sequence of events on 30th April 2026 from ignoring the IMD warning to withholding life jackets, from permitting excess passengers to board to the absence of any Quick Reaction Team represents a systematic and comprehensive violation of these Guidelines.
- ii. That the NDMA Guidelines, while technically advisory in character, have been treated as binding by Courts across India in Public Interest Litigations concerning boat safety. They represent the Government's own acknowledgment of minimum standards required to prevent loss of life, and the State cannot be permitted to disclaim compliance with its own Government's safety framework.

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iii. The National Disaster Management Authority (NDMA), constituted under the Disaster Management Act, 2005, is mandated to issue guidelines for the management of disasters, including man-made disasters arising from transport accidents. The NDMA's National Disaster Management Guidelines on Boat Safety (September 2017), issued under this Act, constitute binding policy guidelines applicable to all State agencies, including the Madhya Pradesh Tourism Department.

iv. The NDMA Guidelines on Boat Safety (September 2017) are a comprehensive framework specifically formulated to prevent boat tragedies of the kind that occurred at Bargi Dam. These Guidelines categorically mandate the following, all of which were violated in the present incident:

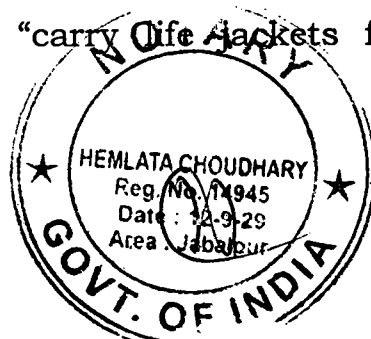
- **Weather Forecasting and Early Warning:** Boat operators and waterways management authorities are mandatorily required to pay close and continuous attention to weather bulletins issued by the IMD. The IMD's Nowcast system is specifically designed to alert boat operators of impending severe weather. The complete failure of the Madhya Pradesh Tourism Department to act upon the IMD warning of 29th April 2026 — or even to consult the IMD before commencing operations on 30th April 2026 — is a categorical and direct violation of Chapter 2 of these Guidelines.
- **Life Saving Equipment (Sections 3.4.1 and 3.5.7):** Every boat is mandated to carry approved life jackets for ALL passengers on board. Life buoys must be provided at the ratio of one per five passengers. First Aid boxes are



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mandatory. Life jackets must be distributed BEFORE the commencement of the voyage, not during an emergency, as the distribution of life jackets only after water began entering the vessel was too late to save lives and constitutes a gross derogation from this mandatory requirement.

- **Seating Capacity (Section 3.3.3):** The maximum passenger capacity must be clearly marked on the vessel and strictly enforced by the operator. The vessel in the present case carried approximately 43 to 47 passengers while only 29 tickets were issued, demonstrating a complete breakdown of capacity enforcement.
- **Safety Briefings (Section 3.3.5):** The master operator is mandatorily required to give a comprehensive safety briefing to all passengers before every voyage, covering emergency procedures, location of life-saving equipment, emergency exits, and distress signals. There is no evidence that any such briefing was given to passengers on 30th April 2026.
- **Monitoring and Maintenance (Section 3.3.4):** Statutory bodies are required to frame rules for periodic examination of boats, including mandatory hull inspections at a minimum frequency of every 3 years. There is no indication that such periodic inspections were conducted in respect of the overturned vessel or other vessels operated at the Bargi Dam site.
- **Do's and Don'ts:** The NDMA Guidelines expressly state that operators must NOT “use boat in stormy conditions” and must “carry Life Jackets for every passenger” and “carry



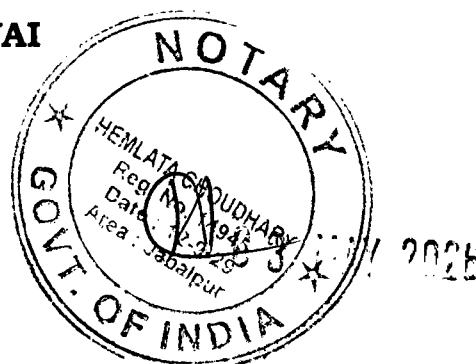
03 MAY 2026

distress signal devices". All three of these express mandates were violated on 30th April 2026.

- **Search and Rescue:** The NDMA Guidelines mandate the constitution of Quick Reaction Teams (QRTs) at all major water tourism ghats, with trained water rescue personnel, medical response kits, and rescue boats on standby at all times during tourist operations. There is no information available to suggest that any such QRT was stationed at or near the Bargi Dam cruise operation site on 30th April 2026.
- v. That the NDMA Guidelines specifically mandate State Governments and boat operators to:
- (a) enforce passenger capacity limits strictly;
 - (b) develop and implement safety management systems;
 - (c) provide mandatory pre-departure safety briefings;
 - (d) maintain clear and continuous communication with weather forecasting agencies including the IMD;
 - (e) encourage and establish Search and Rescue (SAR) response plans; and
 - (f) conduct regular mock drills to ensure emergency preparedness.

It is highly unfortunate that none of these obligations were discharged by the Respondents in relation to the Bargi Dam cruise operations.

E. FAILURE OF REGULATORY OVERSIGHT BY DISTRICT ADMINISTRATION AND IWAI



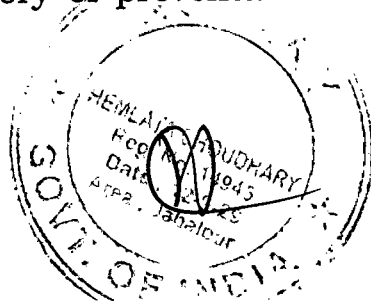
- i. That the Jabalpur District Administration, headed by the Collector, and the Inland Waterways Authority of India (IWAI), as the central regulatory authority for inland waterways, both failed in their independent statutory duties to inspect and certify the vessels operating at Bargi Dam. No evidence exists of any periodic inspection by IWAI or the District Administration prior to 30th April 2026. The systemic failure of regulatory oversight is as culpable as the operational failures of the Tourism Department.

F. CONTINUING DANGER TO PUBLIC AND FAILURE TO TAKE PREVENTIVE ACTION

- i. That following the tragedy, the State Government's failure to immediately suspend all tourist water craft operations across Madhya Pradesh, pending a comprehensive safety audit, constitutes a continuing dereliction of duty. Tourist vessels continue to operate at Bhedaghat, Pachmarhi, Hanuwantiya Island and other sites without any demonstrated compliance with mandatory safety norms, posing an imminent and continuing danger to public safety. The principles of preventive public law — which empower Courts under Article 226 to take proactive measures to prevent constitutional harm — fully justify the immediate interim relief sought herein.

G. PRIOR INCIDENTS AND RECURRING PATTERN OF NEGLIGENCE

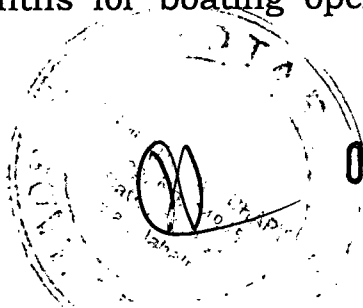
- i. That this tragedy is not an isolated event. India has a long and documented history of preventable boat accidents caused by the



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same recurring factors overloading, absence of life jackets, disregard for weather warnings, and absence of effective regulation. The following precedent disasters, which are directly referenced in legislative and policy developments applicable to the present case, establish that the State's failure was not merely inadvertent but part of a systemic and persistent pattern:

- **Dhubri Ferry Tragedy, Assam (30th April 2012):** A catastrophic ferry disaster on the river Brahmaputra in Assam resulted in the loss of over 250 lives due to overloading of a passenger vessel. This tragedy was the very event that prompted the National Disaster Management Authority (NDMA) to formulate the National Disaster Management Guidelines on Boat Safety (September 2017). These Guidelines, born from the ashes of the Dhubri disaster, are directly applicable to and were violated in the present incident. Ironically, the Bargi Dam accident occurred on the very same date — 30th April — as the Dhubri Ferry Tragedy.
- **Tanur Boat Tragedy, Kerala (May 2023):** A recreational vessel overturned in Malappuram, Kerala, killing 22 persons. Investigations revealed overloading of passengers, absence of adequate life-saving equipment, and operation of an unregistered vessel. The tragedy prompted national debate on the imperative need for States to adopt and implement the Inland Vessels Act 2021. Madhya Pradesh has, to date, failed to frame State-level rules under this Act.
- **Prior Safety Warnings for Bhedaghat and Narmada River Sites:** Reports indicate that specific safety warnings had been raised in the preceding months for boating operations at Bhedaghat and



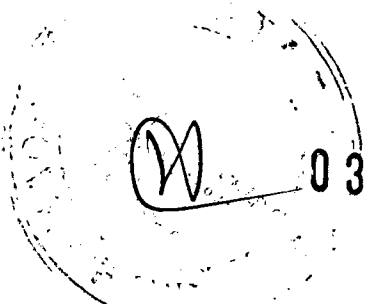
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other Narmada River tourist sites in Madhya Pradesh. These warnings were disregarded by the Tourism Department and the Jabalpur district administration, reflecting an entrenched culture of indifference towards water safety regulations.

- **Pattern Across All Incidents:** The pattern across all these disasters — the Dhubri disaster, Tanur tragedy, and the Bargi Dam catastrophe — remains identical: overloading of vessels, absence of pre-journey distribution of life jackets, operation during or in anticipation of adverse weather, failure of competent authorities to enforce legal standards, and consequent mass loss of life. The repetition of this pattern, despite the framing of the NDMA Guidelines in 2017 and the enactment of the Inland Vessels Act 2021, points to a systemic and callous failure of governance.

H. THAT THE OPERATION OF CRUISE IN THE DESIGNATED WETLAND, I.E. BARGI DAM, IS DIRECTLY IN TEETH OF THE DIRECTIONS ISSUED BY THE HON'BLE CENTRAL ZONE OF THE NATIONAL GREEN TRIBUNAL, BHOPAL, VIDE ITS ORDER DATED 12.09.2023 IN OA/82/2022, AND UPHLED BY THE HON'BLE SUPREME COURT IN DIARY NUMBER 664/2024.

- ii. That it is submitted that the site of the incident, i.e. the Bargi Dam, is a designated Wetland, in Madhya Pradesh. The copy of the relevant portion of the MP Government Wetland list showcasing the name of the Bargi Dam, is herewith annexed and marked as **Annexure P-4**.
- iii. That it is the settled law that the Cruise and other motor boats, cannot be operated in Wetland Sites. In this regard, the reliance

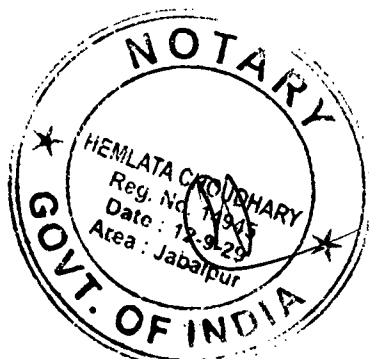

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shall be placed upon the decision of Hon'ble NGT, Central Zone, Bhopal, in Dr. Shubhash C Pandey v. State of MP and Ors, OA/82/2022, wherein it was held as follows:

129. In the result, respondents' authorities are directed to stop operation of Cruise and other motor propelled boats in Bhoj Wetland being Ramsar site and other wetlands, details given herein above, forthwith. They are restrained from raising any permanent construction within "Zone of Influence" of water bodies/wetlands and if any permanent construction has been raised, the same shall be demolished."

130. The respondents are restrained from running Cruise Boats and any other boat operated with motors in Bhopal Lake (Ramsar Site) and other designated wetlands.

- iv. That it is further submitted that the Hon'ble NGT in the aforesaid order, has also directed to comply with the directions issued and submit the action taken report within 3 months, before the Registrar of NGT, CZ, Bhopal. To the best of the knowledge of the petitioner herein, no such compliance has been made by the concerned respondents, till date, which is a huge threat to human lives. The copy of the said order dated 12.09.2023, passed by the NGT, CZ, Bhopal, is attached herewith and marked as **Annexure**



03 MAY 2025

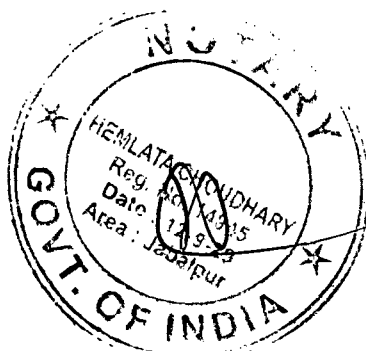
P-5. The verbatim of the said directions issued by the Hon'ble NGT, are herein extracted below:

135. The above directions shall be carried out by the respondents and MPPCB shall ensure compliance thereof and submit an action taken report within 3 months before Registrar of Central Zone Bench, Bhopal by e-mail a ngtczbbo-mp@gov.in preferable in the form of searchable PDF/OCR Support PDF and not in form of Image PDF, who if finds necessary, may place the matter before the Bench for further order if necessary.

- v. That it is pertinent to note that, the concerned respondents challenged the said order dated 12.09.2023, passed by the Hon'ble NGT, before the Hon'ble Supreme Court, vide diary number 664/2024. While adjudicating the said appeal, the Hon'ble Supreme Court vide its order dated 04.03.2024, upheld the order passed by the Hon'ble NGT and dismissed the appeal accordingly. The copy of the said order dated 04.03.2024, passed by the Hon'ble Supreme Court, is attached herewith and marked as **Annexure P-6.**

XI. MAIN PRAYER:

In view of the foregoing facts, grounds and legal provisions, and in the interest of public safety this Hon'ble Court may be graciously be pleased to:



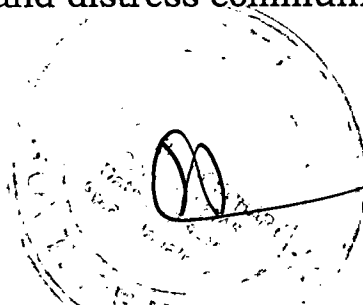
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1. Issue a Writ of Mandamus or appropriate writ directing the Respondent State Government and the Madhya Pradesh Tourism Board to IMMEDIATELY SUSPEND all tourist cruise and boat operations across all water bodies in Madhya Pradesh forthwith, pending comprehensive safety audit and certification of each vessel in accordance with the Inland Vessels Act 2021, NDMA Guidelines on Boat Safety 2017, and any other applicable law;
2. Issue a Writ of Mandamus directing the Respondent State to constitute within 30 days a High-Powered Committee comprising senior technical experts, representatives of IWAI, IMD officials, certified marine surveyors, and civil society members to conduct a mandatory safety audit of ALL tourist water craft in Madhya Pradesh, including cruise boats, houseboats, speedboats, and manual boats at Bargi Dam, Bhedaghat, Pachmarhi, Hanuwantiya Island, and all other tourist water sites in the State;
3. Issue a Writ of Mandamus directing the State Government to frame and notify comprehensive Madhya Pradesh Inland Vessel Safety Rules under the Inland Vessels Act 2021 within 90 days, mandating as a minimum: (i) pre-voyage life jacket distribution and compulsory usage for every passenger including children; (ii) mandatory consultation with the IMD and suspension of operations during adverse weather advisories; (iii) strict passenger capacity limits with zero tolerance for overloading and mandatory ticketing for all passengers; (iv) compulsory safety briefings before each voyage; (v) mandatory registration, periodic survey, and hull inspection of all vessels; (vi) mandatory third-party passenger



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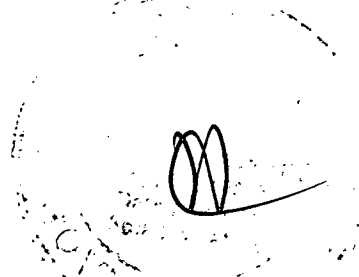
- insurance; and (vii) certification and training requirements for all crew members;
4. Issue a Writ of Mandamus directing the State Government to develop and implement, within 60 days, a real-time weather monitoring and early warning dissemination system for all water tourism sites in Madhya Pradesh, in coordination with the IMD, including a mandatory protocol under which cruise and boat operations are automatically suspended upon issuance of any adverse weather advisory or heavy rain/strong wind warning by the IMD for the relevant area, as mandated by Chapter 2 of the NDMA Guidelines;
 5. Issue a Writ of Mandamus directing the State to ensure and certify, before resumption of any tourist vessel operations, that no tourist vessel is operated without: (i) a valid Certificate of Survey under the Inland Vessels Act 2021, issued by a competent marine surveyor; (ii) a valid Certificate of Registration; (iii) sufficient approved life jackets for EVERY passenger on board, to be worn before departure; (iv) a trained and certified crew including a licensed master operator; (v) functioning distress signal and communication equipment; and (vi) valid third-party passenger insurance;
 6. Direct the Respondent State to constitute and station Quick Reaction Teams (QRTs) at all major water tourism ghats in Madhya Pradesh including Bargi Dam, Bhedaghat, Pachmarhi and Hanuwantiya Island, with trained and equipped water rescue personnel, a minimum of two functional rescue boats, medical response kits, and distress communication equipment, on standby



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- at all times during tourist operations, as mandated under Chapter 5 of the NDMA Guidelines on Boat Safety, 2017;
7. Direct the Respondent State to ensure the registration of First Information Reports and initiate criminal prosecution under applicable provisions, including Sections 105/106 of the Bharatiya Nyaya Sanhita, 2023 (equivalent to Sections 304A/304 of the Indian Penal Code), the Inland Vessels Act 2021, and other applicable statutes, against all responsible officials of the Tourism Department, the crew members of the vessel, and any other person or authority whose negligence, dereliction of duty, or reckless disregard for safety norms caused or contributed to the deaths of the victims;
 8. Direct the Respondent State to make available on a publicly accessible portal, within 60 days, complete information regarding the certificate of survey status, registration status, insurance status, crew certification status, and compliance status of every tourist water vessel operating in Madhya Pradesh, to ensure transparency and public accountability;
 9. Direct the Respondent IWAI and the Union of India to undertake a nationwide review of compliance with the Inland Vessels Act 2021 by all State Tourism Boards and Departments operating tourist vessels on inland waterways, within 90 days, and to submit a compliance report before this Hon'ble Court;
 10. Issue any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case, in the interest of public safety and the right to life guaranteed under Article 21 of the Constitution of India.

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A circular official stamp is partially visible, containing a handwritten signature in the center. The signature appears to be a stylized 'M' or similar character. The stamp is faded and partially obscured by the text above it.

XII. PRAYER FOR INTERIM RELIEF:

Pending final hearing and disposal of this petition, the Petitioner most humbly and urgently prays that this Hon'ble Court may be pleased to pass an interim order directing the Respondent State Government and the Madhya Pradesh Tourism Board to IMMEDIATELY SUSPEND all tourist cruise and boat operations on the Bargi Dam reservoir and at all other tourist water sites across Madhya Pradesh until:

- (a) A comprehensive safety audit of every tourist vessel is completed by a technically competent committee;
- (b) A valid Certificate of Survey under the Inland Vessels Act 2021 is obtained for each vessel;
- (c) Minimum safety standards including pre-voyage life jacket distribution, weather monitoring protocol, and crew certification are verified and certified; and
- (d) A compliance report is placed before this Hon'ble Court.

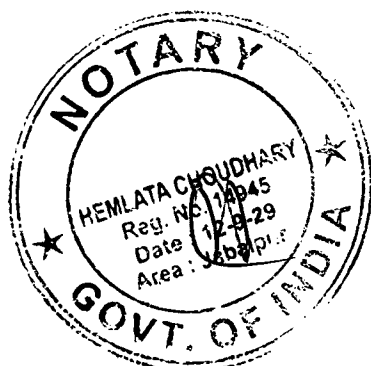
XIII. CAVEAT:

That, no notice of lodging a caveat by the opposite party is received.

PLACE: JABALPUR

DATE: 04.05.2026

HS
HARPREET SINGH GUPTA
COUNSEL FOR PETITIONER



03 MAY 2026

HEM LATA CHOUDHARY
NOTARY
GOVT. OF INDIA
JABALPUR DISTRICT
NOTARIAL

HEM LATA CHOUDHARY
NOTARY
GOVT. OF INDIA
JABALPUR DISTRICT
NOTARIAL

IN THE HON'BLE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR
WP (PIL)/ 12026

NOTARY
HEM LATA CHOUDHARY
NOTARY
GOVT. OF INDIA
Date: 12-5-2026
Area: Jabalpur
NOTARY

IN THE MATTER OF :

16479

KAMAL KUMAR RATHI

.....PETITIONER

VERSUS

STATE OF M.P. AND ORS

.....RESPONDENTS

AFFIDAVIT

NOTARIAL

I, Kamal Kumar Rathi S/o Shri Ram Ratan Rathi aged about 55 years, R/o E2/48, Arera Colony, Bhopal, Madhya Pradesh, do here by solemnly affirm and state on oath as under:

1. That, I am the petitioner in the present petition and I am conversant with the facts and circumstances of the case and as such competent and authorized to swear this affidavit.
2. That, I state that the contents of the petition presented herewith are true to the best of my knowledge, belief and information and nothing material has been concealed therefrom.
3. That, the annexures presented along with the instant petition are true copies of its respective original and nothing material has been concealed therefrom.

HEM LATA CHOUDHARY
NOTARY
GOVT. OF INDIA
JABALPUR DISTRICT
NOTARIAL

LKR
20

K. K. Rathi
DEPONENT
(Signature)

VERIFICATION

I, the above-named deponent, do hereby verify the affidavit and its contents of Para 1 to 3 above which are true to my personal knowledge and belief.

HEM LATA CHOUDHARY
NOTARY
GOVT. OF INDIA
JABALPUR DISTRICT
NOTARIAL

Verified and signed on this ³ day of *May*, 2026.
03 MAY 2026

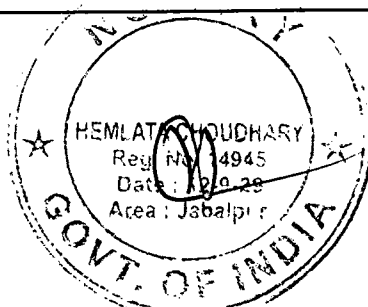
K. K. Rathi
DEPONENT
(Signature)

Subscribed on the *3/5/26* day of *May*
Kamal Kumar Rathi s/o Ram Ratan Rathi
Who has been sworn to by *(Signature)*
Who is present & ready to be sworn to *(Signature)*
Who has been recorded *(Signature)*

Identity by me

IN THE HIGH COURT OF MADHYA PRADESH,**PRINCIPAL SEAT AT JABALPUR, M.P.****W.P. (PIL) No. 16479 /2026****IN THE MATTER OF:****Kamal Kumar Rathi****.....PETITIONER****VERSUS****The State of Madhya Pradesh & Ors.****.....RESPONDENTS****LIST OF DOCUMENTS**

S. No.	Particulars	Annexure	Page No.
1.	News reports of the Bargi Dam Cruise accident dated 30th April – 1st May 2026	P-1	2
2.	NDMA National Disaster Management Guidelines on Boat Safety, September 2017	P-2	6
3.	Relevant provisions of The Inland Vessels Act, 2021 (No. 24 of 2021)	P-3	45
4.	The copy of the relevant portion of the MP Government Wetland list showcasing the name of the Bargi Dam.	P-4	2
5.	The copy of the order dated 12.09.2023, passed by the Hon'ble	P-5	69

**03 MAY 2026**

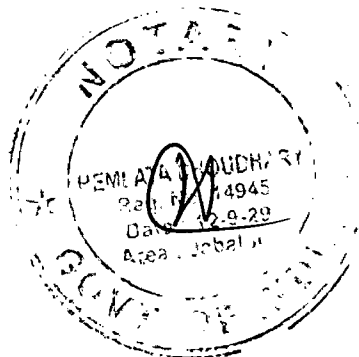
	NGT, Central Zone, Bhopal.		
6.	The copy of the order dated 04.03.2024, passed by the Hon'ble Supreme Court, in Diary Number 664/2024.	P-6	2

PLACE: JABALPUR

DATE: 04.05.2026

HS
HARPREET SINGH GUPTA

COUNSEL FOR PETITIONER



03 MAY 2026



भोपाल 02-05-2026



जबलपुर हादसे से भी नहीं लिया सबक...

नर्मदा में खतरे की ओवरलोडिंग, एक ही नाव में कार-ट्रेक्टर तक सवार

भारत न्यूज | मैरुवा/सीवेर

जबलपुर के बरगी बांध में क्रूज टूटने की घटना के बाद भी नर्मदा के नर्मदा घाटों पर सुरक्षा को लेकर लापरवाही जारी है। शुक्रवार को नीलकंठ, सोलंकंठ, मदनगव और चौरसाखेदी घाटों पर भास्कर की पड़ताल में चौकने वाली तस्वीरें सामने आईं। नावों में क्षमता से अधिक यात्रियों के साथ बहक कर और ट्रेक्टर-ट्रैली तक लादे जा रहे हैं। सबसे गंभीर बात यह है कि

किसी भी घाटी के पास लक्ष्मण जैकेट नहीं थी।

प्रशासनिक एजेंसियों के जलट पर्यटन पर सुरक्षा इंतजाम शून्य है। एसडीएम सुधीर कुसावछा ने ठेकेदारों को सख्त निर्देश दिए हैं कि क्षमता से अधिक सवारी बैठाने या सुरक्षा मानकों की अनदेखी पर लाहसेंस निरस्त किए जाएंगे। हालांकि, 2013 के दिगवाड़ हादसे और हाल ही में मार्च 2026 में बरगी घाट पर हुई दो मीलों के बावजूद नविक नियमों को तका पर रखकर जिनगीयों से खिलवाड़ कर रहे हैं।

सवालों के घेरे में सुरक्षा इंतजाम : नर्मदा घाटों पर लक्ष्मण जैकेट की अनिवार्यता केवल कागजों तक सीमित है। ओवरलोडिंग करने वाले ठेकेदारों पर अब तक कठोर कार्रवाई नहीं होना प्रशासन की सुस्ती को दर्शाता है। एक ही नाव में भारी वाहनों और इंसानों को साथ ले जाना किसी बड़ी त्रासदी को खूब निम्नगण है, जिसे रोकने के लिए जमीनी निगरानी की सख्त जरूरत है।

T.C
K.S

2 Weather Forecasting & Early Warning System

2.1. Overview

Weather is an important component in safe boat operations across the world. In India, there are great spatial and temporal variations in climatic characteristics that are reflected in the form of localized weather variations across the country. Whereas, the favorable weather can support boat operators in carrying out safe navigations and organizing pleasure trips, the poor weather can spoil the trip and may cause emergency situations that may eventually lead to major disasters like boat capsizing, collision etc. It is, therefore essential for boat owners and waterways management authorities to pay much attention on weather bulletins and guidelines issued by local meteorological organizations to avert boat tragedies.

2.1.1 Forecast of hydro-meteorological events related to passenger boating suffers from technology and typically short lead-time limitations. However, even with such limitations forecast could be made with a fair degree of accuracy with select technology choices.

2.2 Weather Forecasting for Safe Boat Operations

2.2.1 India Meteorological Department (IMD)

India Meteorological Department (IMD) is the nodal agency in the Government of India providing vital information about the meteorological observations, weather forecasting and early warning at the national level. The information issued by IMD is gainfully utilized in the optimum operation of weather-sensitive activities. IMD issues advance warning information at stipulated intervals to government functionaries, media and general public against severe weather phenomena like tropical cyclones, thunderstorm, dust storms, heavy rains, snow, cold/heat waves etc. The primary aim of providing warnings ahead of a hazard impact is to empower individuals and communities to respond appropriately to the hazard threat in order to reduce the risk of death, injury, property loss and damage. It is, therefore, essential for all the

stakeholders to keep themselves abreast of the atmospheric disturbance taking place in their locality and how to respond to the emerging threats. A good network of various instruments, half hourly satellite information, high end forecasting work stations, improved NWP models including auto Nowcast systems and enhanced computational and communication capabilities are some of the essential requirements for issuing Nowcast warnings with high degree of accuracy. This may enhance the level of preparedness at the wharf (ghat) or waterways authority level.

- 2.2.1.1 The weather forecast issued by IMD may be of immense utility to boat operators and concerned management authorities to regulate operations in waterways during adverse weather events. IMD runs numerical models for generating weather forecasts in different temporal scales which may be used by regional and local waterways management authorities for providing early warning to boat operators. Summary of the numerical forecasting system is given below:

Forecast System	Validity Period
Global Forecast System	3-10 days
Weather Research and Forecast System	1-3 days
Nowcast	3 hours
Hurricane (Cyclone) Weather Research and Forecast	1-5 days
Multi Model Ensemble for district forecast	1-5 days, twice a week

- 2.2.1.2 The operational forecast and warnings issued for different spatial and temporal domains which may be used for ghat and waterways are as under-

Forecast	Domain	
	Temporal	Spatial
Nowcast	3-6 hours	Venue/ Location
Short Range	3 days	City/ District/State/Met Sub-division

Though there are various types of models and forecasts issued by IMD in medium to extended range (3 -15 days), these forecasts may not be suitable for real time boat operations as well as for planning purpose .

- 2.2.1.3 Nowcast Services for Boat operations

Nowcast technology offers an opportunity to warn boat operators about severe weather events with short lead times up to 3 hours. Currently, IMD

issues Nowcast of localized high impact/ severe weather events such as thunderstorms, squalls and other convective weather phenomena for about 206 cities which are covered by Doppler Weather Radars (DWRs). These information can be helpful for boat owners to take timely decisions on boat operations and safety measures while moving in the water. The Nowcast warnings are issued in different colors depending upon the intensity and are updated at 3 hour intervals. The current Nowcasting network of IMD does not cover the entire river systems covering boat operations.

Regarding provision of nowcast for boat operations by IMD, the following points are to be noted.

- No input possible for river channel crossing.
- Elements of the forecast and scale of warning will depend upon the category of the vessel and the purpose of the operation for both scheduled and non scheduled boat operations.
- For providing the forecast, the details like type of boat, purpose of the boat operation (whether it is of passengers/cargo movement/ passengers and cargo combined) , starting point and the end point of the boat operations with points en route, time schedule and the total duration of the boat operation are to be provided.
- The above details to be provided at least one week before for scheduled operations and at least one day before for non scheduled operations.
- The forecast provided will include the information like possible occurrence of severe weather including its intensity which will be updated in every three hours.

2.2.1.4. Dissemination of Nowcast information

In view of the typically short lead time in Nowcasts and the perishable nature of the generated information, the Nowcast information should reach the end users well in advance. The fastest mode of communication should be used for the dissemination of Nowcast warnings like World Wide Web, e-mail, Fax, telephone, mobile, SMS, TV, radio communication, flag hoisting, public announcements/ Sirens etc.

The forecast products in different spatial as well as time scales suitable for the purpose are already being issued by IMD. These products are being made available in the IMD website immediately after their issue. Hence provision should be made by inland water Authority to access and extract the forecast and warning information of IMD pertaining to the State, Subdivision, District and City levels. Suitable mobile based APP may be developed by the authority to access and extract all the required information along with the route forecast issued for boat operations. Arrangements to be made for the display of the relevant weather information which can be hazardous for the boat operation for the knowledge of the boat operators as well as the public.

2.2.2 Central Water Commission (CWC)

Central Water Commission (CWC) is the technical agency of water resources and flood management working under the Ministry of Water Resources, River Development and Ganga Rejuvenation, Government of India. The organization is entrusted with the task of formulating and disseminating information about flood forecasts at various interstate river locations. CWC maintains 878 hydrological observation stations and 199 flood forecasting stations which include 151 level and 48 inflow forecast stations spread across 20 states and union territories and 19 inter-state river systems in the country. The work of formulation and dissemination of flood forecasts under various inter-state river basins is carried out directly by 27 Flood Forecasting Divisions which are designated as Divisional Flood Control Rooms (DFCR). Flood forecasts are issued 6 to 24 hours in advance depending on the travel time available between base station to FF station and available time of concentration up to flood forecasting stations. CWC has also started rainfall based mathematical modelling to generate 3-day flood advisories for all the flood forecasting stations for 2017 monsoon.

There are two types of forecast issued by CWC – Stage forecast or level Forecast gives information about water level in rivers and Inflow forecast provides information about the likely amount of inflow into the dams /barrages. All these information can be helpful in streamlining safe operations of boats and other cargo during monsoon period or high discharge situation in river channels.

2.2.2.1 In order to improve the safety of boat operations, there is a need for strengthening the scientific, technical and operational meteorological support system in a holistic manner at the national, state and local

forecasting offices so that accurate and precise warnings can be circulated to boat operators and other stakeholders. Improved forecasting of hydro-meteorological hazards require more robust observational systems for the atmosphere, oceans, and land surface. Communication system and computational capabilities at the national, State and local level and infra-structure facilities like forecasting work stations/ computer platforms & Public Weather System at state/ local level requires physical strengthening and improvement. All these communication networks and infrastructural facilities are to be located in state, districts and local EOCs.

- 2.2.2.2 The hydrological forecast should be generated through hydrological modeling based on scientific use of reliable hydrological and meteorological real-time data, river morphological data, catchment characteristic data etc.

2.3 Implementation Programme-Roles and Responsibilities of various agencies

Early warning/forecasting for boat safety demands a three-tier implementation i.e. at national, state and local level. At each of these levels, however, the action plan would require the concerted efforts of all stakeholders that operate at that level. Respondents, stake holders, NGOs, local community need to be clearly identified.

2.3.1 National Level –

- Early warning and Nowcast products to be issued at national, regional, state and local level required for safe boating. Necessary SOP and check list to be prepared.
- Observational network and other infra-structure facilities to be set up at national, regional, state and local level.
- Rainfall data, weather forecast & heavy rainfall warnings to be issued by IMD. In addition, catchment-wise Quantitative Precipitation Forecast and other information to be given to CWC.
- IMD and CWC to provide specialized training for their officials at State and local level for improved understanding of the interaction of hydrological and meteorological processes. Forecasts of flood river level, dam discharge to be issued by CWC.
- NDMA to prepare guidelines and Standard Operating procedures (SOPs)

for co-ordination between concerned agencies and defining the role and responsibilities of different institutions and developing inter-institutional functional mechanism; Implementation of warnings and advisories issued by IMD and CWC. Managing various emergencies and preparation of contingency plans.

2.3.2. State level –

- State Govt. to undertake overall responsibility of the implementation of guidelines and continuous monitoring and follow up.
- State Govt to provide necessary land (free of cost) and other logistic support for setting up of required observatories and provide security of officials and equipments
- State Inland Water Transport Department will act as the implementing authority and to liaison with nodal officers of IMD, CWC & NRSC, Boat operators, ferry passengers and other stake holders to ensure strict implementation of SOPs of NDMA for safe boat operations. IWT officials will be nominated as ferry Ghat managers.
- State IWT officials to conduct regular inspection of the boats and ensure availability of necessary communication equipment, GPS, lifesaving jackets & other materials.
- Each organization will identify their nodal officers for each location and establish control rooms to remain functional on 24x7 basis.
- State Inland Water transport Department to arrange for space and other infrastructure facilities like electricity, internet connectivity etc. for installing screens for display of forecasts and warnings of IMD and CWC.

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—21

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 37] नई दिल्ली, बृहस्पतिवार, अगस्त 12, 2021/ श्रावण 21, 1943 (शक)
No. 37] NEW DELHI, THURSDAY, AUGUST 12, 2021/SRAVANA 21, 1943 (SAKA)

इस भाग में भिन्न 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 12th August, 2021/ Sravana 21, 1943 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2021, and is hereby published for general information:—

THE INLAND VESSELS ACT, 2021

No. 24 OF 2021

[11th August, 2021.]

An Act to promote economical and safe transportation and trade through inland waters, to bring uniformity in application of law relating to inland waterways and navigation within the country, to provide for safety of navigation, protection of life and cargo, and prevention of pollution that may be caused by the use or navigation of inland vessels, to ensure transparency and accountability of administration of inland water transportation, to strengthen procedures governing the inland vessels, their construction, survey, registration, manning, navigation and such other matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Inland Vessels Act, 2021.
- (2) It extends to the whole of India.

Short title,
extent and
commencement.

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(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for bringing into force different provisions of this Act in different States or Union territories, as it may deem fit by the Central Government.

Application
and scope.

2. (1) Save as otherwise expressly provided in this Act, the provisions of Chapters I, III, X, XVI and XVIII shall apply to all inland vessels plying within inland waters of India, and—

(a) Chapters IV, V, VI, VIII, IX, X, XI, XII, XIII and XIV shall apply to all mechanically propelled vessels registered under this Act;

(b) Chapters VIII, IX, X, XI, XII and XIII shall apply to vessels registered under such laws in force in India other than this Act, or registered in such laws in force in any country other than India; but endorsed or recognised under this Act for the purpose of plying within inland waterways;

(c) Chapters IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV shall apply to all vessels identified as special category vessels plying or using inland waterways;

(d) Chapter XVII shall apply to all non-mechanically propelled inland vessels.

(2) Notwithstanding anything contained in sub-section (1), the Central Government or the State Government, as the case may be, may extend the application of any Chapter or provision of this Act to any class or category of inland vessels, or to any region of inland waters, by notification in the Official Gazette.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "authorised insurer" means any insurance company carrying on any class of marine insurance business, which is registered or recognised by the Central Government under any law for the time being in force in India;

(b) "bareboat charter" means an arrangement for the hiring of a vessel without crew, where the charterer is responsible for appointing the crew and making other arrangements;

(c) "bareboat charter-cum-demise" is a bareboat charter where the ownership of the vessel is intended to be transferred after a specified period to the company to which it has been chartered;

(d) "cargo terminal" means a place designated for the loading, or unloading, or any other allied processes of such loading or unloading of cargo in a port, jetty, wharf or such other places developed within inland waters for the purpose of loading and unloading of cargo;

(e) "casualty" includes any vessel which—

(i) is lost, abandoned, materially damaged;

(ii) causes loss of material or damage to any other vessel;

(iii) causes any loss of life or personal injury;

(iv) causes pollution as a result of or in connection with its operation;

(f) "central database" means the centralised record maintained for recording the data and details of—

(i) vessels;

(ii) registration of vessels;

(iii) crew and manning in the vessels;

(iv) certificates issued in respect of vessels;

Handwritten initials/signature

(v) reception facilities; and

(vi) such other data,

to be recorded and maintained in the form of an electronic portal or in such other form and manner as may be prescribed by the Central Government;

(g) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of the insurance premium paid by the insured, and includes a cover note complying with such requirements as may be prescribed by the Central Government;

(h) "competent authority" means the authority referred to in section 6;

(i) "court" means any civil court, revenue court or High Court having jurisdiction over the matters of liabilities and offences as provided in this Act including investigation and inquiry into claims arising out of causalities and accidents within its jurisdiction;

(j) "cover note" includes any note of undertaking issued by the insurer who promises to cover the liability and to indemnify the losses incurred by the insured as provided in the contract of insurance;

(k) "crew" means personnel employed for operation or serving on an inland vessel other than master or passengers as a part of performing the functions of manning;

(l) "dangerous cargo" means any cargo, which, due to its nature, form or content as a whole or in part, are declared as dangerous or potentially dangerous while carried in on any class or category of inland vessels in inland waters under this Act or any other law for the time being in force;

(m) "dangerous goods" means any goods, which, due to its nature, form or content as a whole or in part, are declared as dangerous or potentially dangerous while carried in on any class or category of inland vessels in inland waters under this Act or any other law for the time being in force;

(n) "designated authority" means the authorities appointed by State Government under sub-section (3) of section 5;

(o) "fishing vessel" means a vessel fitted with mechanical mode of propulsion, which is exclusively engaged in fishing for profit, within inland waters;

(p) "hazardous chemical" means any chemical, which has been designated as pollutants under this Act or any other law for the time being in force in India;

(q) "inland vessel" includes any mechanically propelled inland vessel or non-mechanically propelled inland vessel which is registered and plying in inland waters, but does not include—

(i) a fishing vessel registered under the Merchant Shipping Act, 1958 or the Marine Products Export Development Authority Act, 1972; and

(ii) any vessel that are specified as not to be inland vessels by notification by the Central Government.

Explanation—For the purposes of this clause, it is clarified that a vessel registered under the Merchant Shipping Act, 1958 and plying within the inland waters shall be deemed to be an inland vessel registered under this Act;

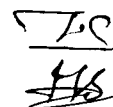
(r) "inland waters", for the purpose of inland navigation, includes any—

(i) canal, river, lake or other navigable water inward of baseline or as may be declared by notification in the Official Gazette by the Central Government;

(ii) tidal water limit, as may be declared by notification in the Official Gazette by the Central Government;

44 of 1958.
13 of 1972.

44 of 1958.



(iii) national waterways declared by the Central Government; and

(iv) other waters as may be declared by notification in the Official Gazette by the Central Government;

(s) "lien" is a legal right or interest that a creditor has in the inland vessel or any property thereof, retained until a debt or duty is secured, or the performance of some other obligation is satisfied;

(t) "limitation of liability" means the rate or extent of liability within which the owner or such other persons entitled under this Act, may limit the liability or be permitted to limit or cap the liability arising out of claims, in accordance with the procedure laid down and the rates, as may be specified in this Act or as may be prescribed by the Central Government;

(u) "load line" means a water line which is marked on an inland vessel to denote the safe carrying or loading capacity of such vessel;

(v) "master" includes any person including serang or such other person, who is in command or in charge of any inland vessel, and does not include a pilot or harbour master;

(w) "material fact" means a fact of such a nature, which determines the judgment of a prudent insurer, in assessing the extent of his liability, premium to be charged, conditions to be specified and such other terms to be entered and incorporated in a policy of insurance governing the relationship with the insured;

(x) "material particular" means any particular of such a nature, which determines the judgment of a prudent insurer, in assessing the extent of his liability, premium to be charged, conditions to be specified and such other terms to be entered and incorporated in a policy of insurance governing the relationship with the insured;

(y) "mechanically propelled inland vessel" means—

(i) any inland vessel in the inland waters which is propelled by mechanical means of propulsion; or

(ii) floating units, floating surfaces, dumb vessels, barges, rigs, jetties or such other non-mechanically propelled inland vessel, which are towed or pushed with the assistance of another mechanically propelled vessel and used for carriage, storage, transportation and accommodation of passengers and cargo in or through inland waters;

(z) "minimum manning requirement" means the standard and number of persons required for safe manning and navigation of vessels, as may be prescribed by the Central Government;

(za) "non-mechanically propelled inland vessel" means any vessel which is not a mechanically propelled inland vessel;

(zb) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(zc) "obnoxious substance" means any substance, which has been designated as pollutants under this Act or any other law for the time being in force in India;

(zd) "official number" means the number assigned to any vessel by the Registrar of Inland Vessels or such other person appointed under this Act, to be affixed or displayed on a conspicuous part of such vessel to refer, distinguish and identify one vessel from another;

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(ze) "oil" means any edible oil carried on vessel as cargo or persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, carried on board of a vessel as cargo or fuel;

(zf) "oily mixture" means a mixture with any oil content;

(zg) "owner" means operator, charterer, beneficial owner or registered owner, who is responsible for the activities of the vessel and shall be under obligation to comply with the provisions of this Act in relation to, or in possessing express or implied title under this Act or any other law for the time being in force;

(zh) "passenger" means any person carried on board of a vessel, except persons employed or engaged in any capacity on board of the vessel in connection with the business of the vessel;

(zi) "passenger terminal" means the terminal designated for the embarking or dis-embarking of passengers and the permitted cargo, in a port, jetty, wharf or like places;

(zj) "passenger vessel" means any vessel permitted to carry more than twelve passengers;

(zk) "pilot" means a person appointed by the owner of the vessel to assist the master or to steer the vessel in such area of inland water in accordance with the mandatory requirements, as specified in section 83;

(zl) "prescribed" means prescribed by rules by the Central Government or a State Government, as the case may be;

(zm) "priority of lien" means the ranking of liens in the order in which they are perfected or recorded in the book of registry maintained at every port or place of registry;

(zn) "reciprocating country" means any country, as may on the basis of reciprocity, specified by notification by the Central Government to be a reciprocating country for the purposes of this Act;

(zo) "recognised organisation" means any organisation recognised and authorised by the Central Government to perform and execute the functions involved in survey, classification or certification of vessels;

(zp) "salvage" means an act of the salvor in retrieving or saving any property or life in danger due to wreck or accident and includes all expenses incurred by the salvor in the performance of salvage services;

(zq) "salvor" means any person who conducts salvage operations;

(zr) "service provider" includes any person, who in the capacity of owner or operator of an inland vessel used or plying in inland waters, providing services to any service user for the purposes of transportation, storage or accommodation;

(zs) "service user" includes any person who as a passenger or owner of cargo or freight forwarder, uses the services of any inland vessel in the inland waters for transportation, storage or accommodation purposes;

(zt) "special category vessel" means a mechanically propelled inland vessel that is identified under this Act as special by considering its use, purpose, function or utility or the means of propulsion including the fuelling system or source of power for propulsion, such as liquefied natural gas, electrical propulsion, the design, dimensions of construction or areas of operation or such other criteria or standards;

(zu) "vessel" includes every description of water craft used or capable of being used in inland waters, including any ship, boat, sailing vessel, tug, barge or other

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description of vessel including non-displacement craft, amphibious craft, wing-in-ground craft, ferry, roll on-roll-off vessel, container vessel, tanker vessel, gas carrier or floating unit or dumb vessel used for transportation, storage or accommodation within or through inland waters;

(zv) "wreck" means a state of any vessel, or goods or a part or property of such vessel or carried on the vessel,—

(i) which have been cast into or have fallen into the inland waters and then sunk and remain under water or remains floating on the surface; or

(ii) which have sunk in the inland waters, but are attached to a floating object in order that they may be found again; or

(iii) which are intentionally thrown away or abandoned without hope or intention of recovery; or

(iv) which by its presence in inland waters, is a hazard or causes impediment to navigation, or adversely affects safety of life or causes pollution.

CHAPTER II

DECLARATION OF INLAND WATER AREA INTO ZONES

Declaration of inland water area into Zones.

4. (1) The State Government may, for the purposes of this Act, declare by notification any inland water area to be a "Zone" depending on the maximum significant wave height criteria specified in sub-section (2).

(2) For the purposes of sub-section (1), the State Government may classify the maximum significant wave height criteria into the following Zones, namely:—

(i) Zone 1 refers to the area (other than Zone 2 or Zone 3) where the maximum significant wave height does not exceed 2.0 metres;

(ii) Zone 2 refers to the area (other than Zone 3) where the maximum significant wave height does not exceed 1.2 metres; and

(iii) Zone 3 refers to the area where the maximum significant wave height does not exceed 0.6 metres.

CHAPTER III

ADMINISTRATIVE PROVISIONS

Administrative role of Central Government and State Governments.

5. (1) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under, or in relation to any such provision of this Act, or the rules made thereunder, or as may be specified in the order allocating the duties, shall, subject to such conditions and restrictions as may be so specified, also be exercisable by the competent authority or by such other officer as may be specified in that order.

(2) On and from the date of issue of notifications or rules made by the Central Government under the provisions of this Act, the provisions shall,—

(a) uniformly apply in whole or in any part of India, as may be specified therein; and

(b) prevail over such notifications or rules, as the case may be, issued or made by the State Governments.

(3) The State Governments may, by notification, appoint one or more designated authorities within their respective jurisdiction for the purposes of exercising or discharging the powers, authority or duties conferred, by or under this Act and the rules made thereunder.

(4) Notwithstanding anything contained in sub-section (1) and section 6, the existing administrative authorities constituted under State Governments or Union territory Administrations may continue to be the designated authorities for the purposes of sub-section (3).

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(5) The State Government may, for the purposes of implementing the various provisions of this Act and the rules made thereunder, by general or special order, direct that any power or authority conferred under this Act, subject to such conditions and restrictions as it may think fit, be exercised or discharged by the respective designated authorities or any officer or any other organisation or body.

(6) Save as otherwise provided in this Act, the State Government shall have the power to make rules and shall exercise the powers conferred on it, as provided by or under this Act.

(7) Notwithstanding anything to the contrary in this Act, for the purposes of administration of the non-mechanically propelled inland vessels, as specified in Chapter XVII, the Central Government shall have no powers of administration and shall only provide assistance to the respective State Government, on receipt of official request from such State Government.

82 of 1985. 6. The Inland Waterways Authority of India, constituted under section 3 of the Inland Waterways Authority of India Act, 1985 shall be the competent authority for the purpose of exercising or discharging the powers, authority or duties conferred, by or under this Act. Competent authority.

CHAPTER IV

SURVEY OF INLAND VESSELS

7. (1) For the purposes of this Chapter,—

- (a) the classification of mechanically propelled vessels;
- (b) the criteria for such classification; and
- (c) the standards of design, construction, fitness and crew accommodation of such vessels,

Power to classify and categorise for purpose of survey.

shall be such, as may be prescribed by the Central Government.

(2) The State Government shall classify and categorise mechanically propelled inland vessels on the basis of criteria and standards referred to in sub-section (1).

8. (1) No person shall construct any mechanically propelled inland vessel, or alter or modify any mechanically propelled inland vessel so as to affect its strength, stability or safety, except with prior approval of the designated authority, in such manner as may be prescribed by the Central Government.

Construction, alteration or modification of mechanically propelled inland vessel.

(2) The list of alterations or modifications referred to in sub-section (1), which would affect the strength, stability or safety of any mechanically propelled inland vessel, and the criteria therefor, shall be such as may be specified by the Central Government, by notification.

9. (1) The standard for type and periodicity of surveys for every mechanically propelled inland vessel shall be such as may be prescribed by the Central Government.

Survey of vessels.

(2) The owner, operator, master or construction yard or any other applicant, as the case may be, shall submit a request for survey in such form and content as may be prescribed by the Central Government.

45 of 1860. 10. (1) For the purposes of this Act, the State Government may, by notification, appoint officers or persons as surveyors of inland vessels and such surveyors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Appointment and qualifications of surveyors.

(2) The minimum criteria and qualifications for the appointment of surveyors, which the State Governments shall adopt in the appointment of surveyors, shall be such as may be prescribed by the Central Government.

11. (1) On receipt of the application from the owner or master or construction yard for conducting survey, in such form and within such time as may be prescribed by the Central Government, the surveyor may board or enter and inspect a mechanically propelled inland vessel: Powers of surveyors.

Provided that the surveyor shall not unnecessarily hinder the loading or unloading of cargo or; embarking or dis-embarking of passengers of the mechanically propelled inland vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, operator, master and crew of the mechanically propelled inland vessel shall render the surveyor, all reasonable facilities for conducting survey, and all information with respect to such mechanically propelled inland vessel, and her machinery or any part thereof, and all equipment and articles on board, as he may require for the purposes of a survey.

Grant of certificate of survey and procedures.

12. (1) On completion of survey of a mechanically propelled inland vessel, the surveyor shall forthwith issue the applicant, a declaration of survey, valid for such period and in such form, as may be prescribed by the Central Government.

(2) The State Government shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration submitted under sub-section (1), and on receipt of payment of fee, as may be prescribed by the State Government, issue a certificate of survey to the applicant.

(3) A certificate of survey granted under this section shall be in such form as may be prescribed by the Central Government, and shall contain a statement to the effect that all the provisions of this Act with respect to the survey of the mechanically propelled inland vessel and the declaration of surveyor have been complied with, and shall set forth such particulars or such other terms and conditions, as may be prescribed by the Central Government.

(4) The State Government may, by notification in the Official Gazette, delegate all or any of the functions assigned to it by the Central Government under this section:

Provided that no delegation shall be made to authorise the grant of a certificate of survey by the surveyor, who made the declaration of survey under sub-section (1).

Provisional certificate of survey and its effect.

13. (1) On receipt of application and the fee from the owner or operator of any mechanically propelled inland vessel, the surveyor who conducted the survey, may grant a provisional certificate of survey extending the validity of the prevailing certificate of survey by endorsement, in such form and for such period, as may be prescribed by the Central Government.

(2) Any mechanically propelled inland vessel, which has been issued with a provisional certificate of survey or endorsement under sub-section (1), may proceed on voyage or use in service, temporarily, pending the issue of the certificate of survey, in such manner and subject to the conditions as may be prescribed by the State Government.

Mechanically propelled inland vessels not to proceed without certificate of survey, and requirement of Zone to be specified in such certificate.

14. (1) No mechanically propelled inland vessel shall be used nor proceed on voyage, without a valid certificate of survey that shall provide or indicate among others, the Zone intended for operation or applicable voyage or service of such vessel.

(2) The certificate of survey shall have effect throughout India, unless otherwise specified therein and subject to such other conditions as may be specified by the competent authority.

(3) The certificate of survey shall be valid for such period as may be specified by notification by the Central Government and shall not be in force—

(a) after the expiration of the period specified in the certificate of survey; or

(b) after notice has been issued to cancel or suspend such certificate.

(4) Nothing in this section shall prevent the State Government from excluding a mechanically propelled inland vessel from the requirement under sub-section (1), on an application made by the owner or master of the vessel for permission to proceed on a voyage; during the interval between the date on which the certificate of survey expires and the earliest possible date of renewal.

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(5) After cessation of a certificate of survey, a valid certificate of survey shall be obtained only after a fresh survey of the mechanically propelled inland vessel has been conducted by any surveyor appointed under this Act.

15. (1) The State Government may suspend or cancel a certificate of survey, if it has reason to believe that—

Suspension and cancellation of certificate of survey.

(a) the declaration of the surveyor of the sufficiency and good condition of the hull, engines or other machinery or of any of the equipment of the mechanically propelled vessel has been fraudulently or erroneously made; or

(b) the certificate has otherwise been granted upon false or erroneous information; or

(c) since the making of the declaration, the hull, engine or other machinery, or any of the equipment of the mechanically propelled vessel have sustained any material damage, or have otherwise become insufficient.

(2) The State Government shall issue the notice of suspension of certificate of survey to the owner, operator, master or construction yard by stating the errors to be rectified and conditions that have to be complied with by the owner, operator, master or construction yard within three months from the date of issuance of such notice, in such manner as may be prescribed by that Government.

(3) In the event of non-compliance of the notice of suspension by the owner, operator, master or construction yard within the period specified therein, the State Government shall record such non-compliance and shall issue the notice of cancellation of certificate of survey, which shall come into force with immediate effect.

16. (1) The owner or master shall deliver the certificate of survey, which has expired or has been suspended or cancelled, to such officer as the State Government may, by notification in the Official Gazette, appoint in this behalf.

Delivery of expired, suspended or cancelled certificate of survey.

(2) The State Government shall record the details of the cancelled certificate in the book of registry maintained by the Registrar of Inland Vessels.

CHAPTER V

REGISTRATION

17. (1) Any mechanically propelled inland vessel, which is wholly owned by—

Registration.

(a) a citizen of India; or

2 of 1912.

(b) a co-operative society registered or deemed to be registered under the Co-operative Societies Act, 1912; or

(c) a body established under any Act relating to co-operative societies for the time being in force in any State; or

18 of 2013.

(d) a company registered under the Companies Act, 2013; or

6 of 2009.

(e) a partnership firm registered under the Limited Liability Partnership Act, 2008; or

(f) any other body including a partnership firm, trust or societies established by or under any Central or State enactment and which has its principal place of business in India;

(g) any legal business combination, otherwise allowed under the existing commercial law for the time being in force in India, within the permissible foreign direct investment limits in the sector and having its principal place of business in India,

shall be registered under the provisions of this Act.

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(2) A foreign vessel, other than vessels registered or obligated to register under the Merchant Shipping Act, 1958, chartered on bareboat charter-cum-demise by an Indian charterer, for the purposes of plying exclusively within inland waters, shall be registered under the provisions of this Chapter. 44 of 1958.

(3) The inland vessels registered under this Act may also be registered under the Merchant Shipping Act, 1958. 44 of 1958.

Explanation.—For the purposes of sub-section (2), "Indian charterer" shall mean a person referred to in clauses (a) to (g) of sub-section (1), who has chartered a vessel on bareboat charter-cum-demise contract.

Requirement of certificate of registration.

18. (1) A mechanically propelled inland vessel required to be registered under this Chapter, shall not proceed on any voyage or be used for any service, unless it has a valid certificate of registration granted under this Act in respect thereof.

(2) Notwithstanding anything contained in sub-section (1), the authority appointed or authorised under this Chapter may—

(a) permit any mechanically propelled inland vessel, built at any place other than a port or place of registry, to make her first voyage through the inland waters to any such port or place for the purpose of registration; or

(b) permit the vessel registered under any law for the time being in force in India for which provisions have been made under this Act to conduct voyage within the inland waters; or

(c) permit any mechanically propelled vessel registered under such laws of countries other than India, which shall only be permitted to ply within the inland waters subject to compliance of such terms and conditions as may be prescribed by the Central Government.

Owner or master to carry certificate of registration.

19. (1) The owner or master of an inland vessel shall carry a valid certificate of registration issued under this Chapter and shall make available for inspection, when demanded by the officers appointed by the State Government.

(2) The State Government or such other officer appointed or authorised under this Chapter may detain any mechanically propelled inland vessel required to be registered under this Act, until the respective owner, operator or master of such vessel furnishes a valid certificate of registration.

Appointment of ports or places of registry and Registrars of Inland Vessels.

20. (1) For the purposes of this Chapter, the State Government may, by notification,—

(a) appoint ports or places of registry; and

(b) appoint Registrar of Inland Vessels at the said ports or places of registry, who shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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(2) A Registrar of Inland Vessels shall, in respect to the port or place of registry for which he is appointed, perform his functions as may be prescribed by the State Government.

Book of registry.

21. (1) The Registrar of Inland Vessels shall maintain and keep a book of registry, which shall have record of all particulars contained in the form of certificate of registration as may be prescribed by the Central Government.

(2) The Registrar of Inland Vessels shall report the details of the book of registry or entries made therein, to the State Government at regular intervals, in such manner and period as may be prescribed by the State Government.

(3) The State Government shall report and update the Central Government in respect of—

(a) the designated ports and places of registry;

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(b) the details of officers appointed or authorised under this Chapter; and
 (c) the details of registrations as entered in the book of registry,
 to facilitate and administer the registration processes under this Chapter.

22. The Central Government shall appoint officers to maintain a central data base for inland vessels, in such form and manner, and the functions of the officers so appointed shall be such, as may be prescribed by that Government.

Central data base of inland vessels.

23. (1) The owner or master, may make an application for registration of a mechanically propelled inland vessel, which has a valid certificate of survey issued under this Act, in such form, manner and along with such particulars, as may be prescribed by the Central Government.

Application and processes of registration of vessels.

(2) The list of documents to be submitted or adduced by the applicants for registration, in addition to the particulars referred to in sub-section (1), shall be such as may be prescribed by the Central Government.

(3) Every application for registration shall be made to the Registrar of Inland Vessels, within the jurisdiction of the respective State in which the owner of the mechanically propelled inland vessel—

(a) ordinarily resides; or

(b) has the principal place of business or the officially registered office.

(4) If the Registrar of Inland Vessels is satisfied that the vessel or the application submitted for registration is not in compliance with the provisions of this Act, he may refuse to register a mechanically propelled inland vessel for reasons to be recorded in writing and shall provide the applicant a note containing the reasons for such refusal.

24. (1) Subject to the provisions of section 23, the Registrar of Inland Vessels shall, grant the certificate of registration to the applicant, who has paid such fee, as may be prescribed by the State Government, and assign the official number to such registered vessel.

Grant of certificate of registration and marking of vessel.

(2) The certificate of registration shall be in such form and content, as may be prescribed by the Central Government, and shall contain the following particulars, namely:—

(a) registered address of the owner and other ownership details;

(b) details of mortgage, if any;

(c) official number;

(d) classification and category of vessel;

(e) any other particular, as may be prescribed by the State Government.

(3) The owner shall display the official number on a conspicuous part of the vessel, as may be prescribed by the State Government.

25. (1) The certificate of registration granted under section 24 shall be deemed to be valid in all States and Union territories, unless otherwise specified therein.

Effect of certificate of registration.

(2) The certificate of registration issued under this Chapter shall be conclusive proof of ownership and title, as declared by the applicant and as entered in the book of registry by the Registrar of Inland Vessels.

(3) Notwithstanding anything contained in this Act, any person who has beneficial interest of ownership in the mechanically propelled inland vessel or shares therein, shall have the same rights as that of the registered owner and shall be deemed as owner of such vessel for the purposes of this Act.

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Duplicate certificate.

26. (1) If the certificate of registration issued under this Chapter is lost or destroyed, the registered owner shall apply for a duplicate certificate to the Registrar of Inland Vessels, who has issued such certificate of registration, in such form and manner as may be prescribed by the State Government.

(2) The Registrar of Inland Vessels shall, on receipt of application under sub-section (1) and such fees or additional fees, as may be prescribed by the State Government, issue the duplicate certificate of registration.

Provisional certificate of registration.

27. (1) The Registrar of Inland Vessels may, pending issuance of the certificate of registration, upon an application and on payment of fee, by the applicant, issue a provisional certificate of registration valid for such period as may be prescribed under sub-section (2).

(2) The application, fee and the issuance of provisional certificate of registration referred to in sub-section (1) shall be in such form, rate and manner, as may be prescribed by the Central Government.

(3) During the period of validity of the provisional certificate of registration, the owner, operator, master or construction yard shall implement and comply with all necessary steps to be taken to have the vessel registered under this Chapter.

Registration of modifications or alterations.

28. (1) The owner, operator or master of any mechanically propelled inland vessel, shall make an application, in such form, manner and within such period as may be prescribed by the State Government, to effect any alteration or modification affecting the strength, stability or safety of such mechanically propelled inland vessel along with the respective certificate of survey, in which such alteration or modification have been approved, to the respective Registrar of Inland Vessels, who has issued the certificate of registration.

(2) The Registrar of Inland Vessels shall, on receipt of application and the certificate of survey and on receipt of such fee, as may be prescribed by the State Government, either cause the alteration or modification to be registered and entered in the certificate of registration, or direct that the vessel be registered anew:

Provided that, where the Registrar of Inland Vessels, directs that the vessel be registered anew, he shall grant a provisional certificate for a specific period describing the vessel as altered or endorse on the existing certificate about the particulars of the alteration.

(3) Any mechanically propelled inland vessel found plying without complying with sub-section (1) or sub-section (2) shall be detained by such authority or officer as the State Government may, by general or special order, appoint in this behalf.

Change of residence or place of business.

29. (1) If the owner of a mechanically propelled inland vessel ceases to reside or carry on business at the registered address recorded in the certificate of registration of the vessel, such person shall comply with the procedures prescribed under sub-section (2) by the Central Government.

(2) For the purposes of sub-section (1), the procedures to be complied with by the owner of any mechanically propelled inland vessel, who ceases to be the owner or applies for the requirement of transfer of registry or any such circumstances leading to change of the registered address, shall be such as may be prescribed by the Central Government.

Prohibition against transfer of ownership of registered vessel.

30. No mechanically propelled inland vessel registered with the registering authority of a State Government under this Chapter, shall be transferred to a person residing in any country other than India, without the prior approval of the Registrar of Inland Vessels, who has originally granted the certificate of registration and such a transfer shall be validated only if made in compliance with such procedures as may be prescribed by the Central Government.

Suspension of certificate of registration.

31. (1) The Registrar of Inland Vessels may at any time, require any mechanically propelled inland vessel within the local limits of his jurisdiction to be inspected by such authority as the State Government may, by general or special order, appoint in this behalf.

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(2) As a result of such inspection, if the Registrar of Inland Vessels has reason to believe that after the granting of the certificate of registration, the mechanically propelled inland vessel became unfit to ply in inland waters, order suspension of the certificate of registration of the said vessel for such period as he may deem fit.

(3) The Registrar of Inland Vessels shall, before suspending a certificate of registration, provide to the owner, operator or master an opportunity of being heard, and record the reasons for such suspension.

(4) The Registrar of Inland Vessels who suspends the certificate of registration under sub-section (2), shall issue a notice of suspension to the registered owner stating the reasons for suspension and the conditions to be complied within such period, as may be prescribed by the State Government, for withdrawal of such order of suspension.

(5) Where the registration of a mechanically propelled inland vessel is suspended under sub-section (2) by any Registrar of Inland Vessels, other than the Registrar of Inland Vessels who has originally issued the certificate of registration, the former shall intimate the latter, regarding such order of suspension or withdrawal of such order of suspension; and the latter shall enter such order in the book of registry in which the registration of the vessel is originally recorded.

(6) The Registrar of Inland Vessels suspending the certificate of registration, shall confiscate such certificate and return the certificate to the owner or master only upon withdrawal of the order of suspension.

32. (1) If any mechanically propelled inland vessel registered under this Act is declared missing, destroyed, lost, abandoned or has been rendered permanently unfit for service or destined for scrapping or dismantling or sold abroad; the owner of the vessel shall, within such time as may be prescribed by the Central Government, report the fact to the Registrar of Inland Vessels of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon such Registrar of Inland Vessels shall have the certificate of registration cancelled.

Cancellation
of
registration.

(2) Any Registrar of Inland Vessels may at any time require that any mechanically propelled inland vessel within the local limits of his jurisdiction may be inspected by such designated authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, such Registrar of Inland Vessels is satisfied that the vessel is in such a condition that it is not fit to ply in any inland water, the Registrar of Inland Vessels may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to him, the certificate of registration in respect of that vessel, if it has not already been so surrendered.

33. (1) A registered mechanically propelled inland vessel or a share therein may be mortgaged as a security for a loan or other valuable consideration, and the instrument creating the security shall be in such form, as may be prescribed by the Central Government, and on the production of such instrument, the Registrar of Inland Vessels who granted the certificate of registration shall record it in the book of registry.

Mortgage of
mechanically
propelled
inland vessel
or share
therein.

(2) The manner and the conditions, subject to which a mechanically propelled inland vessel or a share therein may be mortgaged, shall be such as may be prescribed by the Central Government.

CHAPTER VI

MANNING, QUALIFICATION, TRAINING, EXAMINATION AND CERTIFICATION

34. (1) The standards for qualification, training, training institutes, examination and grant of certificate of competency for the purposes of this Chapter shall be such as may be prescribed by the Central Government.

Training and
minimum age
for
employment.

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(2) No person under the age of eighteen years shall be employed on a mechanically propelled inland vessel registered under this Act.

Minimum
manning scale
and manning
requirements.

35. The minimum manning scale applicable to different class or category of mechanically propelled inland vessels, categorised under this Act or such other laws for the time being in force in India, shall be such as may be prescribed by the Central Government.

Appointment
and duties of
examiners.

36. (1) The State Government may appoint examiners, in accordance with the criteria and qualifications, as may be prescribed by the Central Government, for the purpose of examining the qualifications of persons desirous of obtaining certificates under this Chapter to the effect that they are competent to undertake the responsibilities of and act as, masters, or as engineers or engine-drivers, or as such other persons, as the case may be, on the mechanically propelled inland vessels.

(2) The examiners shall evaluate the persons who have undergone the training required for qualifying as masters, or as engineers or engine-drivers, or as such other persons, as the case may be, and shall report the list of successful candidates who possess the required qualifications to the Central Government or such other officer appointed or authorised by notification by the State Government.

Grant of
certificate of
competency.

37. (1) The State Government may evaluate the report provided by the examiners, and upon confirmation as to the correctness of such report; shall grant to every candidate; who is reported by the examiners to possess the required qualifications, with the certificate of competency, certifying that the candidate specified in the report is competent to serve, in such capacity as may be specified therein, on any class or category or whole of the mechanically propelled inland vessel as specified in the certificate.

(2) The State Government shall require for further examination or a re-examination of all or any of the candidates, if it is found that the report submitted by examiners is defective, or there exists reason to believe that such a report has been unduly made.

(3) The certificate of competency shall be in such form and manner as may be prescribed by the Central Government.

Certificate of
service.

38. (1) The State Government may, on an application, without examination, grant a certificate of service to any person who has served as a master, or as an engineer, of a vessel of the Coast Guard, Indian Navy or regular Army for such period as may be prescribed in this behalf by the Central Government, to the effect that he is competent to act, as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver or in such capacity as may be specified therein, as the case may be, on board the mechanically propelled inland vessel.

(2) For the purposes of granting of certificate of service under sub-section (1), the State Government shall verify the certificate, certifying the competence of the applicant as issued by the Coast Guard, Indian Navy or regular Army, as submitted to it by such applicant along with his application.

(3) Notwithstanding anything contained herein, the State Government may by recording reasons thereof, refuse granting of certificate of service under sub-section (1).

(4) A certificate of service so granted under sub-section (1), shall be in such form and manner; and shall be subject to such conditions, as may be prescribed by the Central Government, and shall have the same effect as a certificate of competency granted under section 37.

Effect of
certificate of
competency
or certificate
of service.

39. Subject to the provisions of this Act and such conditions as may be prescribed by the Central Government, a certificate of competency or certificate of service shall be valid throughout India.

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40. (1) If the holder of any certificate issued under this Chapter is found to have acted in contravention to the provisions of this Act or the rules made thereunder; the said certificate shall be liable to be suspended or cancelled.

Suspension and cancellation of certificate.

(2) The State Government or any officer appointed or authorised under this Chapter shall issue notice to the holder of certificate and shall provide him an opportunity of being heard before suspension or cancellation of certificates issued under this Chapter.

(3) Notwithstanding anything contained in sub-section (2), the State Government or any officer appointed or authorised under this Chapter, may suspend or cancel the certificate of competency or the certificate of service granted under this Chapter by recording reasons thereof.

(4) If a certificate issued under the provisions of this Chapter is suspended or cancelled, the holder of such certificate shall deliver it to the State Government or such officer, appointed or authorised by that Government by notification in Official Gazette under this Chapter.

41. (1) The State Government shall maintain registers in electronic format to record, the details and data of the certificate, and the respective certificates, issued under this Chapter in such form and manner as may be prescribed by it.

Registry of certificate holders and central registry.

(2) The State Government shall report and update the Central Government with the information on data and details of certificates issued, granted, cancelled or suspended or such other remarks, made by the respective authority in regular intervals, as may be prescribed by the Central Government.

(3) The Central Government shall update the central data base with the reports and information received from all the State Governments under this Chapter in electronic format.

CHAPTER VII

SPECIAL CATEGORY VESSELS

42. (1) For the purposes of this Chapter, the Central Government may, by rules to be made in this behalf, specify the criteria and standards to identify any class or category of mechanically propelled inland vessels as special category vessels based on their design, construction, use, purpose, area of plying, source of energy or fuelling, or any other criteria or standards.

Special category vessels.

(2) The requirements of construction, design, survey, registration, manning, qualification, competency, or the requirements in addition to those contained elsewhere in this Act shall be such, as may be prescribed by the Central Government.

(3) The State Governments shall identify the mechanically propelled inland vessels as special category vessels based on the criteria and standards prescribed by the Central Government under sub-section (1).

43. (1) The State Government shall appoint or authorise such number of officers for the purpose of performing duties and implementing the provisions of this Chapter.

Appointment or authorisation of officers to implement provisions, grant certificate of fitness, etc.

(2) On an application made by owner, operator or master of any mechanically propelled inland vessel in such form as may be prescribed by the State Government, any officer appointed or authorised under sub-section (1), on being satisfied that such vessel complies with the provisions of this Act and falls under the special category vessels as identified in this Chapter, and subject to such other conditions including validity as may be prescribed by the State Government, may grant a certificate of fitness, in such form and manner as may be prescribed by that Government.

(3) The officer appointed or authorised under sub-section (1) may, for reasons to be recorded in writing, refuse to grant the certificate of fitness in respect of an application made under sub-section (2).

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Safety of passengers or service users.

44. (1) The safety features, gears and such other measures by which any mechanically propelled inland vessel, identified as special category vessel under this Chapter, shall comply with and be equipped in accordance with the categorisation of such vessel, shall be such as may be prescribed by the State Government.

(2) The maximum carrying capacity of the vessel identified as special category vessel by specifying the safety loadline or the limits of loadline to keep them afloat, or such other criteria and conditions, other than those mentioned elsewhere in this Act for the safe voyage of such inland vessel, shall be such as may be prescribed by the State Government.

Inspection of vessel.

45. (1) The surveyor may, other than for the purpose of survey, at any reasonable time, go on board any special category vessel, and inspect the respective vessel including the hull, equipment and machinery or any part or properties of such vessel.

(2) The owner, operator, agent, master and any such person in-charge of the special category vessel, shall make available all necessary facilities to the surveyor for inspection and survey, and all such information regarding the vessel and her machinery and equipment, or any part thereof, respectively, as the surveyor or such other officer may reasonably require.

Suspension or cancellation of certificate of fitness.

46. (1) If any special category vessel does not comply with the provisions of this Act or the rules made thereunder, the State Government may issue notice to the owner or operator or master or any person in-charge of such vessel, for rectifying the non-compliance within such time as may be specified therein.

(2) In case of continuance of non-compliance by the owner or operator or master or any person in-charge of the special category vessel even after receipt of the notice issued under sub-section (1), the State Government may, after providing an opportunity of being heard and for reasons to be recorded in writing, suspend or cancel the certificate of fitness issued to such vessel under this Chapter.

(3) If the certificate of fitness of a special category vessel has been suspended or cancelled under sub-section (2), then such vessel shall cease to operate till the suspension is revoked, or in the event of cancellation, shall cease to operate till a new certificate of fitness is granted.

CHAPTER VIII

NAVIGATION SAFETY AND SIGNALS

Navigation safety, lights and signals.

47. (1) The specifications and requirements of signals and equipment based on classification and categorisation of mechanically propelled vessels, to be complied with by such vessels shall be such as may be prescribed by the Central Government.

(2) The fog and distress signals to be carried and used, the steering and sailing rules to be complied with and the different protocols for exhibition and display of different standards of lights, shapes and signals, by any mechanically propelled vessel plying in inland waters shall be such, as may be prescribed by the Central Government.

(3) The owner or master of every mechanically propelled vessel, while in the inland water limit, shall comply with the rules made under sub-sections (1) and (2), and shall not carry or exhibit any lights or shapes or use any fog or distress signals, other than that required to be exhibited under this Chapter or the rules made thereunder.

Obligation to ensure safe navigation.

48. (1) Every mechanically propelled vessel shall adopt necessary measures to prevent collision and to ensure safe navigation through inland waters.

(2) If any damage to person or property arises in the inland water limit due to non-observance of any of the rules made under this Chapter by any mechanically propelled vessel, the damage shall be deemed to have been occasioned by the wilful default of the person in-charge of such vessel at that time, unless it is shown to the satisfaction of the court that the circumstances of the case demanded deviance from the applicable rules.

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49. The master of a mechanically propelled vessel, while in the inland water limit, on finding or encountering a dangerous derelict or any other hazard to navigation in the inland waterways, shall immediately send a signal to indicate the danger or distress, or any such information to other mechanically propelled vessels in the vicinity and to the concerned State Government:

Distress signal.

Provided that no fees or charges shall be levied on any mechanically propelled vessel, in using any device for communicating any information under this section.

50. (1) The master of any mechanically propelled vessel, while in the inland water limit, who has received any signal of distress from any vessel or aircraft within the inland water limit, shall proceed immediately to the assistance of the persons in distress by acknowledging the receipt of such signal to the vessel in distress.

Assistance to vessels in distress and persons in distress.

(2) Notwithstanding anything contained in sub-section (1), the master of a mechanically propelled vessel shall be released from the obligation to render assistance as provided in the said sub-section, if he is unable to do so, or in the special circumstances of the case, considers it unreasonable to act as provided in the said sub-section, or if the requirement for assistance is being complied with by other vessels, or the assistance is no longer required.

(3) The master of any mechanically propelled vessel, while in the inland water limit, shall render assistance to every person found in danger of being lost in the inland waters.

(4) The master of any mechanically propelled inland vessel may abstain from complying with sub-section (3), if in his judgment, he is unable to or, in the special circumstances of the case, such assistance may not be rendered without serious danger to his vessel, or to the persons on board and, in such event shall inform the respective authorities regarding his inability of such non-compliance.

51. (1) The Central Government shall, by rules made in this behalf, specify the class or category of mechanically propelled inland vessels to be equipped with navigation aids, life saving appliances, fire detection and extinguishing appliances and communication appliances.

Life saving, fire safety and communication appliances.

(2) The owner, operator or master of all mechanically propelled inland vessels shall comply with the requirements of navigation aids, life saving appliances, fire detection and extinguishing appliances and communication appliances as specified in sub-section (1).

(3) The State Government may appoint or authorise such officers as surveyors to inspect and ensure that the mechanically propelled inland vessels comply with the applicable requirements specified in sub-section (1).

(4) If the surveyor, on inspection, finds that the mechanically propelled inland vessel is not so provided with life saving and fire appliances in conformity with the provisions of this Act and the rules made thereunder, he shall issue a notice to the master or owner or operator in writing pointing out the deficiency, and unless the master or owner or operator complies with the said notice and report such compliance to the surveyor, the said vessel shall not proceed to conduct any voyage.

CHAPTER IX

PREVENTION OF POLLUTION CAUSED BY INLAND VESSEL

52. (1) The Central Government shall, by notification, designate the list of chemicals, any ingredients or substance carried as bunker or as cargo, or any substance in any form discharged from any mechanically propelled inland vessel, as pollutants.

Chemicals, etc., to be designated as pollutants.

(2) The owner or master of any mechanically propelled inland vessel shall discharge or dispose of the sewage and garbage in accordance with such standards and manner as may be prescribed by the Central Government.

(3) No mechanically propelled inland vessel shall cause pollution by discharging or dumping of pollutants designated under sub-section (1):

Provided that nothing in this sub-section shall apply to the discharge dump or emission of such oil or oily mixture, hazardous chemical or obnoxious substance or any other pollutant, as the case may be, from a mechanically propelled inland vessel for the purpose of securing the safety of any mechanically propelled inland vessel, preventing damage to another mechanically propelled inland vessel, cargo or saving of life at inland waters.

Certificate of prevention of pollution.

53. (1) The Central Government shall, by rules made in this behalf, specify the standards of construction and equipment of the mechanically propelled inland vessels to ensure compliance with the requirements of this Chapter.

(2) The State Government shall appoint or authorise such officers to ensure construction, installation and maintenance of equipment of all mechanically propelled inland vessels and issue certificate of prevention of pollution, in compliance with the provisions of this Chapter.

(3) Every mechanically propelled inland vessel, which has been constructed and equipped in compliance with this Chapter shall be issued with a certificate of prevention of pollution in such form, validity and content as may be prescribed by the Central Government.

(4) Every mechanically propelled inland vessel shall carry on board a valid certificate of prevention of pollution and shall furnish the same on demand by concerned officers appointed or authorised under this Chapter.

Reception facilities and containment of pollution.

54. (1) The Central Government shall, by rules made in this behalf, specify the conditions for construction, use and maintenance of reception facilities for the containment of pollution and removal of pollutants arising from spillage or discharge arising from mechanically propelled inland vessels at all cargo terminals or passenger terminals.

(2) The owner or operator of all cargo terminals or passenger terminals shall provide reception facilities to discharge oil, oily mixture, hazardous chemicals, sewage or obnoxious substances at such cargo or passenger terminal, as the case may be, in compliance of sub-section (1).

(3) The owner or operator of all cargo terminals or passenger terminals, providing reception facilities shall receive charges, at such rates as may be prescribed by the State Government.

(4) For the purposes of minimising the pollution already caused, or for preventing the imminent threat of pollution, the Central Government or such other officer appointed by the State Government may, by order in writing, direct the owner or operator of cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipment and pollutant removing materials, at such cargo and passenger terminal, as may be specified in such order.

(5) The owner or operator of the passenger or cargo terminal shall submit a report of compliance to the Central Government or such other officer appointed under sub-section (4), in such form as may be prescribed by the State Government.

(6) The owner, operator or master of any mechanically propelled vessel used or plying within inland waters, shall discharge the pollutants at the port reception facilities in such manner as may be prescribed by the State Government.

Appointment of surveyor or officer to inspect.

55. (1) The State Government may appoint or authorise such officers as surveyors to inspect any cargo or passenger terminal lying within its respective jurisdiction.

(2) The surveyor authorised under sub-section (1) may, at any reasonable time, enter and inspect any cargo or passenger terminal to—

(a) ensure that the provisions of this Chapter are complied with;

(b) verify whether such cargo or passenger terminal is equipped for pollution containment and removal, in conformity with the order of the State Government or any of the rules made under this Chapter; and

(c) satisfy himself of the adequacy of the measures taken to prevent pollution.

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(3) If the surveyor, on inspection, finds that the cargo or passenger terminal is not provided with the required pollution containment equipment and pollutant removing materials, he shall give a notice in writing pointing out the deficiencies and the recommended remedial measures to rectify such deficiency, that is identified during the inspection, to the owner or operator of such cargo or passenger terminal, as the case may be.

(4) No owner or operator of such cargo or passenger terminal, as the case may be, served with the notice under sub-section (3), shall proceed with any work at such cargo or passenger terminal, until he obtains a certificate signed by the surveyor to the effect that the cargo or passenger terminal, is properly provided with the required pollution containment equipment and pollutant removing materials in conformity with the rules made under this Chapter.

56. (1) The State Government shall direct any designated authority or such other authorised officer appointed under Chapter XIII to conduct investigation into incidents of pollution. Investigation into incidents of pollution.

(2) The State Government shall update the Central Government with such information or report of the court, if so directed by such court concerned, on incidents of pollution that occurs within its jurisdiction.

CHAPTER X

WRECK AND SALVAGE

57. The owner, operator, master or person in-charge of a vessel plying in inland waters shall not intentionally abandon, desert, dump, throw overboard or jettison the vessel or property or parts or cargo, so as to cause wreck. Prohibition against intentionally causing wreck.

58. (1) The State Government may, by notification, appoint or authorise any officer to act as receiver of wreck within the respective jurisdiction. Receivers of wreck.

(2) The owner, operator, master or person in-charge of vessel, property or cargo, which is wrecked, stranded or in distress or who has found any vessel, property or cargo wrecked, stranded or in distress in the inland waters, shall immediately inform, by all means of communication to the receiver of wreck in whose jurisdiction the vessel, property or cargo is found to be wrecked, stranded or in distress.

(3) The owner of the wreck, whose property or cargo, is wrecked or stranded or is in distress in the inland waters shall inform the receiver of wreck in writing of the finding thereof and of the marks by which such wreck can be distinguished, and in cases, where the wreck is in possession of any person other than the owner, operator, master or person in-charge of vessel, property or cargo, such person shall deliver such wreck to the receiver of wreck.

Explanation.—For the purposes of this Chapter, the word "person" shall have the meaning assigned to it in clause (42) of section 3 of the General Clauses Act, 1897. 10 of 1897.

59. For the purposes of this Chapter, the—

- (a) powers and functions of the receiver of wreck;
- (b) responsibilities and obligations of the owner, operator, master or person in-charge of vessel, property or cargo with respect to the wreck;
- (c) measures adopted for the removal of obstruction to navigation;
- (d) disposal of wreck, including its sale and proceeds of unsold property;
- (e) measures to be adopted for protection of wreck, fouling of government moorings;
- (f) rights and duties of salvors and performance of salvage operations or resolution of disputes pertaining to amount payable to salvors; and
- (g) such other matter, which the Central Government may deem necessary for the efficient administration and removal of wrecks,

shall be such as may be prescribed by the Central Government.

Powers of Central Government to make rules for Chapter X.

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CHAPTER XI

LIABILITY AND LIMITATION OF LIABILITY

- Liability under Act. 60. (1) The owner, operator, master, a member of crew or an insurer shall be liable for the offences and contraventions of the provisions of this Act or the rules made thereunder.
- (2) Where any person is beneficially interested otherwise than by way of mortgage or in the share in any mechanically propelled inland vessel registered in the name of some other person as owner, the person so interested, and the registered owner, shall be liable to all the pecuniary penalties imposed by this or any other Act on the owners of mechanically propelled inland vessels or shares therein.
- Apportionment of loss. 61. (1) Whenever by the fault of two or more mechanically propelled inland vessels, damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each of such vessel was at fault:
- Provided that—
- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- (b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which such vessel has not contributed;
- (c) nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by the provisions of any law for the time being in force, or as affecting the right of any person to limit his liability in the manner provided by such law.
- (2) For the purposes of this Chapter, reference to damage or loss caused by the fault of a mechanically propelled inland vessel shall be construed as including reference to any salvage or other expenses, consequent upon that fault, recoverable under the provisions of any law for the time being in force by way of damages.
- (3) The person who has suffered damage or injured or his representative may apply to any court having appropriate jurisdiction on the claim, for the detention or attachment of the vessel.
- Liability for personal injury, loss of life or pollution to environment. 62. (1) Where, loss of life or personal injuries is suffered, damage to property or pollution is caused by any person on any mechanically propelled inland vessel or any other vessel, owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of such vessels concerned shall be joint and several.
- (2) No liability for any claim other than loss of life, personal injury or pollution, shall attach to the owner, operator, master, or a member of crew or insurer under this Chapter, if he proves that the cause for claim—
- (a) was a result of an act of war, hostility, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (b) was wholly caused by an act or omission with intent to cause such damage by any other person; or
- (c) was wholly caused by the negligence or other wrongful act of a State Government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.
- Detention of mechanically propelled inland vessel. 63. The State Government may appoint or authorise any officer under this Chapter, for the purpose of detaining any mechanically propelled inland vessel in connection with a claim, or an offence under this Chapter, and the procedure thereof shall be such as may be prescribed by that Government.

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64. (1) The owner, operator, master or any person in-charge of a vessel or member of crew of any mechanically propelled vessel may limit the extent of his liability for— Limitation of liability.

(a) claims in respect of loss of life or personal injury, or loss of, or damage to, property including damage to jetties, wharfs, harbour basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of such vessels or with salvage operations, and consequential loss resulting therefrom;

(b) claims arising out of loss resulting from delay in the carriage of cargo and passengers or their luggage by inland waters;

(c) claims arising out of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of such vessel or salvage operations;

(d) claims in respect of the raising, removal, destruction or rendering harmless of a vessel or the cargo which is sunk, wrecked, stranded or abandoned;

(e) claims of a person, other than the person liable, in respect of measures taken by such person in order to avert or minimise loss and for further loss caused by such measure;

(f) claims for the loss of life or personal injury to passengers of such vessel brought by or on behalf of any person—

(i) under the contract of passenger carriage; or

(ii) who, with the consent of the carrier, is accompanying a vessel for live animals which are covered by a contract for the carriage of goods, carried in such vessel.

(2) Notwithstanding anything contained in this section, no person shall be entitled to limit his liability for—

(a) claims for salvage; or

(b) claims stipulated as exempted from the application of limitation of liability under any other law for the time being in force in India.

(3) Notwithstanding anything contained in this section, the act of invoking limitation of liability shall not be construed as constituting an admission of liability by any person who takes the defence.

(4) For the purposes of this Chapter, the liability of the owner or operator of a mechanically propelled inland vessel shall include the liability in an action brought against such vessels.

(5) The limits of liability and the criteria in determining compensation for any claim as provided under sub-section (1) shall be such as may be prescribed by the Central Government.

(6) The person entitled to limit liability under sub-section (1) may apply to the High Court of respective jurisdiction for constituting a limitation fund for the consolidated rate as provided for under this Chapter.

(7) Where a vessel or other property is detained in connection with a claim, covered under this Chapter, the High Court may order release of such vessel or other property, upon an application made by the person, who is entitled to limit their liability and by—

(a) ensuring that such person, who is entitled to constitute the limitation fund has submitted his availability in person to the jurisdiction of the High Court; or

(b) depositing sufficient fund or financial guarantee as determined by the High Court as security; or

(c) constituting the limitation fund,

as the case may be.

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Non-
applicability
of limitation.

65. No person shall be entitled to limit the liability against any claim, if such claim has arisen due to intentional act or negligence of the person or his employee, who otherwise would have been entitled to limit his liability under this Chapter.

CHAPTER XII

INSURANCE OF MECHANICALLY PROPELLED VESSELS PLYING IN INLAND WATERS

Insurance to
cover.

66. No mechanically propelled vessel shall be used for voyage in inland waters, unless there is in force—

(a) a policy of insurance which shall cover liability that may be incurred by the insured—

(i) in respect of the death of or bodily injury to any person or damage to any property caused by or arising out of the use of the mechanically propelled vessel;

(ii) in respect of liability of operational pollution and accidental pollution of inland waters;

(b) a policy of insurance in compliance of the Public Liability Insurance Act, 1991, if the mechanically propelled inland vessel is carrying or meant to carry, dangerous or hazardous goods;

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(c) a policy of insurance covering the mechanically propelled vessel to—

(i) a value not less than the liability incurred; or

(ii) entitle it to be covered under limitation of liability as provided under this Act, a value not less than the specified and applicable limitation amount:

Provided that any policy of insurance issued with a value not less than the limitation of liability in force, immediately before the commencement of this Act, shall continue to be effective for a period of twelve months after such commencement or till the date of expiry of such policy, whichever is earlier.

Contractual
liability not to
cover.

67. Notwithstanding anything contained in this Chapter, a policy shall not be required to cover any contractual liability of the insured that arises due to any performance or non-performance of a contract or of agreement in the capacity of a service provider.

Issuance and
terms of
insurance
policy.

68. (1) For the purposes of section 66, the policy of insurance issued shall be a policy, which—

(a) is issued by an authorised insurer;

(b) insures the mechanically propelled inland vessel, any person or any classes of persons specified in the policy to the extent specified in section 66; and

(c) is a certificate of insurance issued by the insurer to the insured in such form and content, and subject to such conditions as may be prescribed by the Central Government.

(2) The terms and conditions to be incorporated in the contract of insurance entered between insurer and insured to cover the risks as provided in section 66 shall be such as may be prescribed by the Central Government.

Duty to
indemnify and
direct action
against insurer.

69. (1) Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the insured or any person, as specified in the policy in respect of any liability which the policy purports to cover in the case of the insured or that person.

(2) Any claim for compensation against the loss or damage under this Act and covered by the insurance may be brought directly against the insurer in respect of the liability incurred by the registered owner.

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70. Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925, the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

Effect of death on certain causes of action.

71. When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then,—

Effect of certificate of insurance.

(a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to the person claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

72. Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter transfers to another person, the ownership of the mechanically propelled vessel covered under this Chapter, in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the mechanically propelled inland vessel is transferred with effect from the date of its transfer.

Transfer of certificate of insurance.

Explanation.—For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities covered under the said certificate of insurance and the policy of insurance.

73. The Central Government shall, by rules made in this behalf, specify the terms, conditions and procedures to be complied with by the insurers and insured including—

Powers of Central Government to make rules for Chapter XII.

- (a) cover note of insurance and its validity;
- (b) rights and duties of the insured;
- (c) procedures and processes involved in processing of claims;
- (d) duties and obligations of the insurers to satisfy the judgments and awards;
- (e) rights of claimants, liability of the insured and the insurers in special circumstances such as the insured becomes insolvent and the procedures to be followed;
- (f) procedures, processes and minimum terms of conditions for the settlement between the insurers and insured persons;
- (g) procedures to be followed in the transfer of certificate of insurance; and
- (h) such other matters directly or indirectly related to insurance of mechanically propelled vessels, for the purposes of effective implementation and administration of this Chapter.

CHAPTER XIII

INQUIRY INTO CASUALTY, ACCIDENT OR WRECK

74. (1) The State Government, may by notification, appoint any designated authority for the purposes of this Chapter.

Reporting of casualty, accident, wreck, etc.

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(2) The owner, operator or master of a mechanically propelled inland vessel, shall give information of any wreck, abandonment, damage, casualty, accident, explosion or loss occurred to or on board such a vessel while in the inland waters, to the officer in-charge of the nearest police station and to the designated authority appointed under sub-section (1), in such form and manner as may be prescribed by the State Government.

(3) The designated authority shall at once report the contents of the information referred to in sub-section (2) to the District Magistrate.

(4) The officer in-charge of the police station shall, on receipt of information referred to in sub-section (2), investigate into the matter and submit a report to the jurisdictional Judicial Magistrate in accordance with the provisions of Chapter XII of the Code of Criminal Procedure, 1973.

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(5) The Judicial Magistrate may, on receiving the report referred to in sub-section (4), take action as he may deem fit in accordance with the provisions of Chapter XVI.

Preliminary enquiry by designated authority and inquiry by District Magistrate.

75. (1) The designated authority may, in pursuance of the information referred to in sub-section (2) of section 74, conduct a preliminary enquiry and submit a report thereof to the District Magistrate, who shall transmit the same to the concerned State Government.

(2) The State Government may, on receipt of the report referred to in sub-section (1), if deemed necessary, direct the District Magistrate to submit an additional report to it and send a copy thereof to the Judicial Magistrate of the first class referred to in sub-section (4) of section 74 through the jurisdictional police.

(3) The powers of the District Magistrate referred to in sub-section (2) and the procedures to be followed by him in holding the inquiry for submission of additional report shall be such as may be prescribed by the State Government.

Assessors.

76. (1) For the purposes of this Chapter, the State Government may appoint and maintain a list of assessors, which may be revised from time to time.

(2) The State Government shall, by rules made in this behalf, specify the qualifications, criteria and consideration, fees or charges for the assessors, who are conversant with the maritime affairs and have experience in the merchant service or in the navigation of the mechanically propelled inland vessels and willing to act as an assessor.

(3) The District Magistrate may, for the purposes of assisting in the inquiry under this Chapter, appoint any number of assessors, from the list of assessors provided to him by the State Government.

(4) In every inquiry, other than the one specified in sub-section (3), the District Magistrate may, if he thinks fit, appoint an assessor, for the purposes of such inquiry, any person.

(5) Every person appointed as an assessor under this section shall assist the District Magistrate in the inquiry and deliver his opinion as may be sought for, which shall be recorded in the proceedings.

Report of District Magistrate to be notified by State Government.

77. (1) The District Magistrate shall, in the case of every inquiry under this Chapter, make a full report of the conclusions at which he has arrived, together with the evidence recorded and the written opinion of any assessor.

(2) The State Government shall, on receipt of the report referred to in sub-section (1) from the District Magistrate, cause it to be published by notification in its Official Gazette.

Powers of District Magistrate subsequent to inquiry.

78. (1) The District Magistrate may, after inquiry, recommend in his report for cancellation or suspension or confiscation of a certificate of competency or a certificate of service granted to a master, crew or engineer by the State Government under Chapter VI, if such District Magistrate finds that—

(a) the accident or casualty, including loss, stranding or abandonment of, or damage to, any mechanically propelled inland vessel, or loss of life, has been caused by the wrongful act or default of such master or engineer;

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(b) such master or engineer is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or in a case of collision, has failed to render such assistance or give such information or notice as may be required under this Act.

(2) At the conclusion of the inquiry, or as soon thereafter as possible, the District Magistrate shall state in open sitting, the decision arrived at by him with respect to the cancellation or suspension or confiscation of any certificate of competency or a certificate of service and, if suspension is ordered, the period for which the certificate is suspended.

(3) Without prejudice to the provisions of this section, the District Magistrate may also make such order and require such security in respect of the costs of the matter as he may deem fit and necessary in the circumstances of the case.

79. (1) The State Government, in whose jurisdiction the certificate of competency or a certificate of service was granted under Chapter VI, may cancel or suspend any such certificate or, in the event of the vessel being found in the jurisdiction of another State Government, such State Government may confiscate the certificate, if,—

Power of State Government to suspend, cancel and confiscate certificate.

(a) on any inquiry made under this Chapter, the District Magistrate reports for cancellation or suspension or confiscation of that certificate under section 78; or

(b) the holder of such certificate is proved to have been convicted of any non-bailable offence; or

(c) the holder of such certificate is proved to have deserted his vessel or has absented himself without leave and without sufficient reason, from his vessel or from his duty; or

(d) in the case of a person holding any designation as provided by the certificate of competency or certificate of service, is or has become, in the opinion of the State Government, unfit to act in such designation, as the case may be.

(2) Every person whose certificate of competency or a certificate of service is suspended or cancelled under this Chapter shall deliver it to such person as the State Government, which suspended or cancelled it, may direct.

(3) If any State Government cancels, suspends or confiscates the certificate of competency or a certificate of service granted under Chapter VI, the proceedings and the fact of confiscation and recommendation for suspension or cancellation, shall be reported to the State Government which has originally issued, granted or endorsed such certificates.

(4) The State Government may, at any time, revoke any order of suspension or cancellation or confiscation which it may have made under this Chapter, or grant a certificate anew, for reasons to be recorded in writing, to any person whose certificate it has so cancelled and such certificate granted anew, shall have the same effect as a certificate of competency granted under this Act after examination.

CHAPTER XIV

REGULATION OF TRADE PRACTICES

80. The Central Government may, prescribe the minimum standards, terms and conditions to protect the interests of service providers and service users and to ensure safety of such persons.

Powers of Central Government to protect interests of service providers and service users.

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Prohibited goods and dangerous goods.

81. The Central Government shall, by notification, declare the list of dangerous goods that may be carried subject to such conditions, as may be prescribed by it, and prohibited goods that are prohibited from being carried on any class or category of mechanically propelled inland vessels, while plying in the inland waters.

Trade permission and endorsement of certificates of foreign vessels.

82. (1) No vessel registered in any country other than India shall be permitted to be used or employed for the purposes of, carriage of goods, transportation of passengers, storage units, accommodation, floating units or for such other purposes within the inland waters, unless such vessel has secured prior permission from the Central Government for its use or employment for such purposes and subject to such terms and conditions as may be prescribed by the Central Government:

Provided that, where the Central Government has entered or in the event of that Government entering into bilateral or multilateral treaties pertaining to the inland navigation, whereby the permission is provided to the vessels belonging to foreign countries to ply within inland waters of India, the Central Government or the State Government, as the case may be, shall impose or apply such vessels belonging to the foreign countries, with the same conditions to the service providers in India.

(2) For the purposes of sub-section (1), any certificate granted by any other foreign country in accordance with the provisions of any law for the time being in force in that country corresponding to the provisions as provided in Chapters IV, V and VI under this Act may, on payment of such fees as may be prescribed by the Central Government, for the grant of a similar certificate or licence under this Act, be endorsed by—

(a) any State Government in India; or

(b) with the general or special sanction and subject to such other terms and conditions of such State Government, by any authority competent to grant a similar certificate under this Act.

(3) Upon endorsement of any such certificate as provided in sub-section (2), it shall have effect for such period and to such extent as may be prescribed by the Central Government and shall be treated as if it had been granted under this Act.

CHAPTER XV

PILOTAGE, VESSEL DETENTION AND DEVELOPMENT FUND

Pilotage.

83. (1) The Central Government may, by notification, specify the requirement of pilotage in whole or part of inland waterways declared as national waterways.

(2) The State Government may, by notification, specify the requirement of pilotage in whole or part or any stretch of designated inland waterways or such passages that lie within the respective territory of such State Governments and in respect of which the Central Government has not specified under sub-section (1).

Certified master to be deemed pilot under Act 15 of 1908.

84. Subject to the provisions of section 83, every master of any mechanically propelled inland vessel, who possesses a master's certificate granted under this Act and in force, shall, in ports to which section 31 of the Indian Ports Act, 1908 has been extended, be deemed, for the purposes of that section, to be the pilot of the mechanically propelled inland vessel of which he is in-charge.

Vessel detention and forfeiture.

85. (1) The State Government or any officer authorised under this Act may, detain, forfeit or remove from the inland waters, any mechanically propelled inland vessel, which is required to be registered under the provisions of this Act, if found—

(a) plying or being used in inland waters without a valid certificate of registration;

(b) plying without a valid certificate of survey;

(c) plying with passengers beyond the permitted carrying capacity;

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(d) to have not affixed the registration number assigned to such vessels as provided under this Act;

(e) not complying with the manning requirements under Chapter VI;

(f) not complying with the provisions of Chapter VIII;

(g) to act in contravention to the provisions of Chapter X;

(h) not in compliance with the provisions of Chapter XII;

(i) to carry dangerous goods or prohibited goods in contravention to the provisions of section 81 or the rules made thereunder.

(2) The owner, operator or any such person recognised as responsible for the vessel under detention, shall pay the respective and applicable fees and charges for the safe custody and maintenance of the detained or forfeited vessel, which shall be pre-condition for release of the vessel and which if unpaid, shall create a lien over such vessel to comply with the provisions of this Act.

(3) Upon compliance with the provisions of this Act and the rules made thereunder, and after rectifying the mistakes that lead to detention, the State Government shall, without any unreasonable delay, release the vessel and her custody to the owner, operator or any such person recognised as responsible for the vessel under this Act.

(4) Unless specifically provided elsewhere in this Act, the procedures for detention, formality, fees and conditions to be followed and observed by the concerned officer or authority or court, appointed or authorised or constituted under this Act, for the purpose of detaining a vessel, shall be such as may be prescribed by the State Government.

(5) An officer so authorised to enter any vessel may, for the purpose of enforcing the order of detention or forfeiture, call to his aid, any police officer or any other person authorised under this Act or such other laws in force in India.

86. (1) There shall be a Fund constituted by the State Government to be called the Development Fund, to be utilised for—

(a) meeting emergency preparedness;

(b) meeting containment of pollution caused by discharge of oil, mixtures, obnoxious substances, chemicals and other noxious and harmful substances, to preserve and protect inland waters;

(c) supporting, part or whole of expenses of owners or economically backward sector involved in activities of trade and living depending solely on inland waters;

(d) removal of unidentified wreck or obstruction affecting and impeding navigation; and

(e) boosting up development works of inland water navigation with respect to safety and convenience of conveyance.

(2) For the purposes of constitution of the Development Fund under sub-section (1), endeavour shall be made to design schemes of contribution from—

(a) the State Government;

(b) stake holders;

(c) the amount collected from sale of wreck or cargo or remains thereof after deducting the expenses incurred;

(d) excess fund out of judicial sale of vessels or any property or cargo after meeting the expenses incurred or set-off against the court to meet damages or functioning of the court or administrative machinery; and

Constitution
of
Development
Fund.

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(e) part or proportionate disbursement of fees collected by the respective State Government as provided in this Chapter.

CHAPTER XVI

OFFENCES AND PENALTIES

Offences and penalties.

87. (1) Whoever, contravenes any of the provisions of this Act, shall be punishable with penalty as mentioned in the third column of the Table provided in sub-section (2).

(2) The classification of offences for contravention of the provisions of this Act and the corresponding penalties therefor shall be as provided in the following Table, namely:—

Section	Offence	Penalty
(1)	(2)	(3)
8	Any owner, operator or construction yard, found guilty of construction, alteration or modification of mechanically propelled inland vessel in contravention of section 8.	Fine which may extend to ten thousand rupees for every non-compliance found.
14 (1)	Owner, operator or master of any mechanically propelled inland vessel, using such vessel, without a valid certificate of survey has acted in contravention of sub-section (1) of section 14.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.
18 (1)	Owner, operator or master of any mechanically propelled inland vessel proceeding on any voyage or use a mechanically propelled inland vessel required to be registered, for any service, without a valid certificate of registration and in contravention of sub-section (1) of section 18.	Fine which may extend to ten thousand rupees for the first offence and fifty thousand rupees for subsequent offences.
19 (1)	Owner or master who does not carry a valid certificate of registration or not making the same available for inspection, has acted in contravention of sub-section (1) of section 19.	Fine which may extend to ten thousand rupees for every non-compliance found.
24 (3)	Owner not displaying the official number on the conspicuous part of a vessel has acted in contravention of sub-section (3) of section 24.	Fine which may extend to ten thousand rupees.
27	Owner, operator or any person responsible for the operation of the vessel, has acted in contravention of section 27.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.

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(1)	(2)	(3)
28 (2)	Owner, operator or master of any mechanically propelled inland vessel not registering the details of alterations that are mandated to be registered as specified in sub-section (2) of section 28.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.
29	Owner or operator of any mechanically propelled inland vessel, who does not comply with the requirements or has acted in contravention of section 29.	Fine which may extend to five hundred rupees for every day of non-compliance.
30	Owner of any mechanically propelled inland vessel, has acted in contravention of section 30.	Fine which may extend to ten thousand rupees per day or imprisonment which may extend to one year, or with both.
32 (1)	Owner of any mechanically propelled inland vessel, has acted in contravention of sub-section (1) of section 32.	Fine which may extend to five thousand rupees for every day of non-compliance.
34 (2)	Owner or operator on whose vessel, persons under the age of eighteen years are employed, has acted in contravention of sub-section (2) of section 34.	Fine which may extend to five thousand rupees for every day of non-compliance or imprisonment not exceeding six months, or with both.
35	Owner or operator of any mechanically propelled inland vessel without complying with the specified minimum manning scale has acted in contravention to section 35.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.
40 (1) and (4)	The holders of certificate of competency, has acted in contravention to the provisions of this Act or not surrendered the suspended, cancelled or varied certificate issued under non-submission of suspended or cancelled certificates.	Fine up to five thousand rupees per day or imprisonment extending up to six months, or with both.
44	Owner or operator or any person responsible for the operation of special category vessel, which does not comply with the provisions of Chapter VII.	Fine which may extend to ten thousand rupees for every day of non-compliance or imprisonment extending up to six months, or with both.
47	Owner, operator or master of any mechanically propelled vessel registered, recognised or identified under this Act, for not equipping the vessels or exhibiting the lights and signals specified under Chapter VIII.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.

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(1)	(2)	(3)
48	Owner, operator or master not ensuring safe navigation or causing damage due to non-observance of regulations.	Fine which may extend to twenty-five thousand rupees.
49 and 50 (1)	Owner, operator or master of any mechanically propelled vessel plying in inland waters abstaining from proceeding to render assistance after answering to the distress signal.	Fine which may extend to ten thousand rupees.
51 (2)	The owner, operator or master of any mechanically propelled inland vessel proceeding to conduct any voyage without complying with the requirements of navigation aids, life-saving appliances, fire detection and extinguishing appliances and communication appliances as specified under sub-section (2) of section 51.	Fine which may extend up to fifty thousand rupees.
52 (2) and (3)	The owner, operator or master of any mechanically propelled vessel causing pollution by discharging or dumping of pollutants in inland waters.	Fine which may extend to fifty thousand rupees.
53 (4)	The owner, operator or master of any mechanically propelled vessel, who are required under this Act to possess a valid prevention of pollution certificate, plying or using the vessel without the said valid certificate.	Fine which may extend to twenty-five thousand rupees.
54 (2) and (5)	The owner or operator of any reception facility who does not comply with the standards and obligations stipulated.	Fine which may extend to fifty thousand rupees.
55 (4)	The owner or operator of the terminal who operates without complying with the notice issued under sub-section (4) of section 55.	Fine which may extend to ten thousand rupees per day of non-compliance beyond period of notice.
57	Any owner, operator or any person who intentionally cause wreck within inland waters.	Fine amounting to fifty thousand rupees and imprisonment which may extend to three years.
58 (2)	Any person who is guilty of offence committed by contravention of sub-section (2) of section 58.	Fine which may extend to ten thousand rupees.

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(1)	(2)	(3)
66	Any owner or master plying any mechanically propelled inland vessel without a valid insurance as provided under section 66.	Fine which may extend to ten thousand rupees and detention of the vessel till certificate of insurance is procured.
74 (2)	The owner, operator or master of any mechanically propelled inland vessel not complying with sub-section (2) of section 74.	Fine which may extend to ten thousand rupees.
79 (2)	Any person who holds a certificate issued under Chapter VI and fails to surrender suspended or cancelled certificates.	Fine which may extend to ten thousand rupees for every day of non-submission.
80	Any person, in the capacity of a service provider or a service user, who acts in contravention of section 80.	Fine which may extend to fifty thousand rupees.
82	Master or operator of any foreign vessels acting in contravention of sub-section (1) of section 82.	Fine which may extend to fifty thousand rupees or imprisonment which may extend to one year, or with both.
83	Owner, operator or master of mechanically propelled inland vessel, who does not comply with the requirement of pilotage in contravention of section 83.	Fine which may extend to fifty thousand rupees or imprisonment which may extend to three years, or with both.
97	Any person employed on inland vessel for neglect or refusal to join or desertion of vessel in violation of his obligation as provided under section 97.	Forfeiture of a sum not exceeding two days' pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute, from his wages and also to imprisonment which may extend to two months.
102	Any person found guilty of causing obstruction or has acted in contravention of section 102.	Fine which may extend to fifty thousand rupees or imprisonment which may extend to three years, or with both.

(3) Any person who acts in contravention of the provisions of this Act or the rules made thereunder, but for which an offence is not specifically provided in this Act, shall be punishable with fine not exceeding three lakh rupees or with imprisonment up to a term which may extend to three years, or with both.

(4) Where the owner or master of any mechanically propelled inland vessel is convicted of an offence under this Act or any rule made thereunder, committed on board, or in relation

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to that mechanically propelled vessel, and is sentenced to pay a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the mechanically propelled vessel, or its appurtenance so much thereof as is necessary.

(5) Where an inland vessel has been used in contravention of the provisions of this Act or the rules made thereunder, the details of the offence, the offender and the vessel shall be recorded in such form and manner, as may be specified by the Central Government by notification.

(6) The State Government shall appoint courts not inferior to that of a Magistrate of the first class, for the purpose of conducting trial of any person who is charged of any offence as provided under this Act or the rules made thereunder.

Offences by company, limited liability partnership firm or any such arrangement.

88. (1) Where an offence under this Act has been committed by a company or a limited liability partnership firm or any such arrangement, every person who, at the time the offence was committed was in-charge of, and was responsible to the company or the limited liability partnership firm or any such arrangement, for the conduct of the business, and the company or the limited liability partnership firm or any such arrangement, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, 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.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company or a limited liability partnership firm or any such arrangement 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 partner or other officer of the company or the limited liability partnership firm or any such arrangement, as the case may be, such director, manager, secretary or partner or other officer, as the case may be; shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Fees, additional fee, payment and collection.

89. (1) Unless otherwise specified, the State Government shall collect, the fees and additional fees for the services provided under this Act and any other charges or payment made to it against payments towards penalties, at such rates and intervals, as may be prescribed by the State Government.

(2) The State Government shall appoint or authorise such officers, or constitute such offices within its jurisdictions, by notification, to act as single point collection offices within the districts or ports, considering proximity and convenience of remittance.

(3) The procedures, forms and format of receipts, maintenance of accounts and any other matter that is necessary for the purpose of the remittance, collection, accounts and accountability of collected fees, additional fees, charges or payment against penalties of pecuniary nature shall be such as may be prescribed by the State Government.

(4) The owner, operators or their representatives, as the case may be, shall remit the fees or additional fees in such manner and at such rates as may be prescribed by the State Government.

(5) All fees payable under this Act may be recovered as fine under this Act.

Cognizance of offence.

90. No court shall take cognizance of any offence under this Act, except on a complaint in writing made by the Central Government or any officer authorised by the State Government, as the case may be, for this purpose.

CHAPTER XVII

NON-MECHANICALLY PROPELLED INLAND VESSEL

Local self-governance.

91. (1) The State Government may authorise any of its department (herein in this Chapter referred to as the authorised department) to administer and implement the provisions of this Chapter.

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(2) The office of the authorised department shall be located at such places which are accessible to owners, operators of non-mechanically propelled inland vessel and service users of such vessels.

(3) The offices of the authorised department shall in the order of hierarchy of power, be at district, taluk and panchayat or village level, or any other hierarchy as may be prescribed by the State Government, and shall exercise the powers and functions as may be prescribed by that Government, which shall include the powers and functions to—

(a) enrol the non-mechanically propelled inland vessel under this Chapter;

(b) collate data with regard to the non-mechanically propelled inland vessel enrolled under this Act and report it to the higher authority in the hierarchy of power;

(c) administer the welfare fund constituted under this Chapter in accordance with such authority and obligation;

(d) advise and conduct awareness programmes for assisting the owners, operators or service users of non-mechanically propelled inland vessel enrolled under this Act; and

(e) perform such other functions as may be assigned under this Act or the rules made thereunder.

92. (1) The owner or operator may enrol, by submitting the details of the ownership of non-mechanically propelled inland vessel, undertaking that the vessel is put into motion by solely employing human labour and such other details as may be prescribed by the State Government, at the office of the authorised department, which is located nearest to the place of residence of the owner or area of plying of the non-mechanically propelled inland vessel, in such form and manner as may be prescribed by the State Government. Obligation to enrol.

(2) The form prescribed by the State Government under sub-section (1) shall be published in the respective vernacular language, apart from Hindi or English, as the case may be.

(3) For the purposes of identification and categorisation of non-mechanically propelled inland vessels, to be enrolled in accordance with the provisions of sub-section (1), the State Government shall publish such criteria for categorisation which may include the size, purpose of employment, age, construction, design or such other criteria of the vessels.

(4) The enrolment of non-mechanically propelled inland vessels shall be a prerequisite for such vessels to be entitled for the benefits and preferential treatment accorded under this Chapter.

(5) The details of the enrolled vessels shall be recorded in the registry of enrolment and be reported by the offices of lowest order in the hierarchy of power to the highest hierarchy and the collated list of enrolled vessels shall be maintained by the office of District Magistrate or such officer appointed or authorised under this Chapter, for the said purpose. T.C
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(6) The State Government shall maintain a central data base to record the details of the non-mechanically propelled inland vessel enrolled within the respective jurisdiction, in such form and manner as may be prescribed by it.

(7) The lowest ranking officer of the office of the authorised department shall report of any change to the registry of enrolment maintained by him and bring to the notice of the authority higher in the hierarchical order, and the changes shall be brought out accordingly, in every such register maintained by the respective authorities including the central data base maintained by the Principal Secretary or Secretary of the State Government.

93. (1) The officer of the authorised department appointed or authorised to maintain the registry under this Chapter, shall issue a certificate of enrolment to the non-mechanically propelled inland vessels that have enrolled in the registry of enrolment. Certificate of enrolment and marking of vessel.

(2) The certificate of enrolment shall be issued, in such form and manner as may be prescribed by the respective State Government, and details to be specified in such certificate shall include—

- (a) name, permanent address as given in the Unique Identification Document issued by Unique Identification Authority of India, electoral identification document or such other document of the owner, as may be prescribed by the State Government;
- (b) details such as year of construction, laying of keel or such other information;
- (c) details of design, if identified or categorised under this Chapter;
- (d) details of officer issuing or granting the certificate; and
- (e) number given to the vessels enrolled by the issuing authority.

(3) The authorised department in every State shall issue a number to the non-mechanically propelled inland vessel enrolled within the respective jurisdiction, which shall be unique for the purpose of identification of enrolment with the authorised department of the respective State.

(4) The number so issued under sub-section (3) shall be exhibited on a conspicuous part of the non-mechanically propelled inland vessel in such form and manner as may be prescribed by the respective State Government.

Standards of construction and safety.

94. (1) The basic minimum standards that may be reasonably observed during the construction of any non-mechanically propelled inland vessel, shall be such as may be prescribed by the State Government.

(2) Notwithstanding anything contained in sub-section (1), the State Government shall specify, the standards of construction, which any class or category of non-mechanically propelled inland vessel shall comply with, in such manner as may be prescribed by it:

Provided that the standards prescribed by the State Government shall be in harmony with the traditional knowledge and practices passed on as customary or ancestral means that are applied by skilled and talented persons involved in the designing and construction of non-mechanically propelled inland vessel.

(3) The State Government may specify the minimum safety gears and equipment by notification in the Official Gazette with which the non-mechanically propelled inland vessel shall be equipped with for the purpose of ensuring safety of such vessels.

(4) The State Government may provide for standards of overhauling, modifying, altering or refitting the non-mechanically propelled inland vessel for the purpose of ensuring safe navigation.

(5) The non-mechanically propelled inland vessels enrolled under this Act, shall comply with the safety standards as stipulated under this Chapter or the rules made in this regard.

(6) For the purposes of ensuring safe navigation of non-mechanically propelled inland vessels, the State Government may, by notification, specify the routes, areas or stretch of inland waters that are prohibited from being used or subject to such terms and conditions, for the navigation of non-mechanically propelled inland vessel.

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Power of State Government to make rules to regulate non-mechanically propelled inland vessels.

95. (1) The State Government may, by rules made in this behalf, specify the measures to regulate non-mechanically propelled inland vessels.

(2) For the purposes of sub-section (1), the State Government may make rules for the following, namely:—

- (a) for prevention and minimising pollution caused by the non-mechanically propelled inland vessels;
- (b) for removal of obstructions to safe navigation;

(c) measures that may be adopted to avert accidents and casualty; and

(d) any other measure which the State Government may deem fit in implementing the provisions of this Chapter.

96. (1) Every State Government shall, by notification, constitute a welfare fund at district level, for allocation of such fund to assist the non-mechanically propelled inland vessels enrolled under this Chapter. Constitution of welfare fund.

(2) Any officer appointed or authorised under this Chapter to be in-charge of the fund for the non-mechanically propelled inland vessel shall, with the previous approval in writing of the respective State Government or such other authority appointed for the said purpose, utilise the fund to—

(a) create awareness and conduct knowledge dissemination sessions for educating the owner, operator and service user on improvements required for safe navigation;

(b) provide equipment and devices of safety and navigation at a subsidised rate;

(c) provide support or relief during casualties, accidents or such emergencies; and

(d) for such other purposes as it may deem fit.

CHAPTER XVIII

MISCELLANEOUS

97. No person employed or engaged in any capacity on board a mechanically propelled vessel shall— Desertion and absence without leave.

(a) neglect or refuse, without reasonable cause, to join his mechanically propelled vessel or to proceed on any voyage in his vessel;

(b) cause to be absent from his vessel or from his duty at any time without leave and without sufficient cause;

(c) desert from his mechanically propelled vessel;

(d) fail to act or behave with discipline befitting his duty and mandate.

98. (1) The Central Government may make rules for—

(a) implementation of standards for the use of special category of vessels within inland waterways; General powers of Central Government to make rules.

(b) providing the requirements and standards of—

(i) river information services;

(ii) vessel traffic and transport management, safety and information services;

(iii) vessel tracing and tracking information;

(iv) to tackle calamities and furtherance of emergency preparedness;

(v) to quarantine the vessels and to adopt such other measures to effectively control any epidemic or disease of contagious nature;

(c) enforcing standards to avoid and tackle pollution arising in inland waterways;

(d) exemption, inclusion or extension of the application of any or all the provisions of this Act to any vessel registered, recognised or identified and intended to ply, or plying in the inland waters;

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(e) any other matter as it may deem fit and necessary in the proper implementation of this Act for the purposes of ensuring safe navigation, safety of life and prevention of pollution caused by inland vessel.

(2) For the purposes of administration of the notifications mentioned in sub-section (1), the Central Government or the State Government, as the case may be, shall authorise or appoint officers by notification.

Emergency preparedness.

99. (1) Every State Government may, appoint or authorise the advisory committee or officers, by notification, to take adequate measures, as may be prescribed by the State Government, to minimise or counter emergency.

(2) The owner, operator, master, crew or any other person connected with inland vessel plying in inland waters shall upon finding or apprehending a situation of crisis, which could adversely affect or is adversely affecting the safety of navigation, safety of human life or preservation of inland waters, inform or report the advisory committee or such other officers, appointed under sub-section (1) having respective jurisdiction or jurisdictions over such crisis that is found or is anticipated to affect adversely.

(3) The advisory committee or officers, who are appointed or authorised under sub-section (1), on receipt of information under sub-section (2), or as directed by the Central Government or the State Government or on their own initiative, may record the crisis as emergency and, shall adopt such measures as prescribed under sub-section (1), and such other measures which are feasible and in best of the judgment necessary to minimise or counter such emergency.

(4) The advisory committee or officers, appointed or authorised under sub-section (1) may request the navy, coast guard, any other emergency force, or any inland vessel available for such assistance as necessary.

(5) No mechanically propelled inland vessel directed or acting voluntarily in rendering assistance as mentioned in sub-section (4) shall be bound by the provisions of this Act or the rules made thereunder.

(6) Any mechanically propelled inland vessel acting voluntarily, for the purpose of saving life or vessel or providing basic amenities, shall report to the advisory committee or officers appointed or authorised under sub-section (1) regarding the presence and reasons for the acts in writing, at the earliest possible.

(7) The advisory committee or officers appointed or authorised under sub-section (1) shall disburse all basic amenities necessary and essential as it may deem fit, to the persons or vessels affected by such emergency.

(8) The advisory committee or officers appointed or authorised under sub-section (1) shall report to the Central Government or the State Government, the complete description of the events, consequences and such measures adopted under sub-section (3) and the effectiveness of such measures in countering the emergency.

Removal of lawful obstruction.

100. (1) If any obstruction or impediment to the navigation of any inland water has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the authorised officer shall report the same for the information of the State Government and shall, with the sanction of the State Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising out of or concerning such compensation shall be determined according to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

30 of 2013.

Validity of certificates issued under laws other than this Act.

101. (1) Every certificate issued in respect of any person or vessel, under any other enactment in force in India, by the Central Government, shall be valid and effective as a certificate issued under this Act and the relevant provisions of this Act shall apply in relation to such persons or vessel as they apply to, any person who has been issued with a certificate

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under Chapter VI or any mechanically propelled inland vessel registered, recognised or identified under this Act.

(2) Notwithstanding anything contained herein, the State Government may impose additional conditions and requirements for the purpose of recognition of certificates as provided under sub-section (1).

102. No person shall wilfully cause obstruction or attempt to obstruct any authority or officer appointed under this Act in exercise of the respective functions and powers conferred upon such authority or officer, or in the discharge of any duty imposed by or under this Act; by abstinence, failure to facilitate inspection, or restraining or physically objecting the entry or movement or non-production of books or records as and when demanded by such authority or authorised officers.

Obstruction to officer appointed or authorised.

103. Whoever contravenes any of the provisions of this Act or the rules made thereunder, shall be triable for the offence in any place where he may be found or at the place of occurrence or at the place in the State where the offence has been committed or a place which the Central Government or the State Government, as the case may be, by notification, specify in this behalf, or any other place in which he might be tried under any other enactment for the time being in force.

Place of trial.

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104. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by competent authority or in the event of the matter being referred to the court of competent jurisdiction, such offence may be compounded by the competent authority with the permission of such court.

Composition of offences.

(2) The competent authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(3) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(4) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(5) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the competent authority referred to in sub-section (1) in writing, to the notice of the court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(6) Any person who fails to comply with an order made by the competent authority referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

(7) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.

105. (1) Unless otherwise provided in this Act, any person aggrieved by an order made by the officers or authorities under this Act, may appeal to the State Government against refusal, suspension, cancellation, detention, removal or such other order, issued under this Act, within thirty days from the date of receipt of such order.

Appeal.

(2) The State Government shall cause notice of every such appeal to be given to concerned officers or authorities whose order is made the subject matter of the appeal, and after giving an opportunity to the appellant; shall pass appropriate order by recording reasons thereof, which shall be final.

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Power of
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to make rules.

106. (1) For the purposes of effective implementation of the provisions of this Act, the Central Government shall, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the centralised record to be maintained in e-portal, for recording the data and details of vessel, vessel registration, crew, manning, certificates issued, reception facilities and such other data to be recorded under clause (f) of section 3;

(b) the requirements for compliance to be specified in a cover note for the purpose of issuance of certificate of insurance under clause (g) of section 3;

(c) the procedure to be laid down and rates to be specified so as to calculate the rate of extent of liability within which the owner or such other persons entitled under this Act, may limit the liability or be permitted to limit or cap the liability arising out of claims under clause (t) of section 3;

(d) the standard and number of persons required for safe manning and navigation of vessels under clause (z) of section 3;

(e) the classification, criteria for such classification and standards of design, construction, fitness and crew accommodation to classify or categorise any mechanically propelled inland vessel under sub-section (1) of section 7;

(f) the manner of carrying out construction and any alteration or modification of mechanically propelled inland vessels with the prior approval of design from the designated authority under section 8;

(g) the standards for type and periodicity of surveys for all mechanically propelled inland vessels, which are newly constructed and already in service under sub-section (1) and the form and content of request for survey to be submitted by the applicant under sub-section (2) of section 9;

(h) the minimum criteria and qualifications for the appointment of surveyors, which the State Governments shall adopt in the appointment of surveyors under section 10;

(i) the form of application for conducting survey to be submitted by owners, masters or construction yard under sub-section (1) of section 11;

(j) the form and contents of the declaration of survey of a mechanically propelled inland vessel and the time period for which such certificate shall be valid, under sub-section (1) of section 12;

(k) the form of the certificate of survey including any particulars or terms and conditions under sub-section (3) of section 12;

(l) the form of provisional certificate of survey and the period of validity provided under sub-section (1) of section 13;

(m) the terms and conditions to be complied with for permitting any mechanically propelled vessels registered under such laws of countries other than India; which shall only be permitted to ply within the inland waters under clause (c) of sub-section (2) of section 18;

(n) the form, contents or particulars of the book of registry as provided under sub-section (1) of section 21;

(o) the form and manner for maintenance of central data base for inland vessels by the officers appointed by the Central Government under section 22;

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(p) the functions to be performed by the officers appointed by the Central Government under section 22;

(q) the form and manner of making application for registration of a mechanically propelled inland vessel and the particulars along with which such application is to be made under sub-section (1) of section 23;

(r) the list of documents to be submitted or adduced by the applicants for registration under sub-section (2) of section 23;

(s) the form and content of certificate of registration under sub-section (2) of section 24;

(t) the form of application, fee and the manner of issuance of provisional certificate of registration under sub-section (2) of section 27;

(u) the procedures to be complied with by the owner of any mechanically propelled inland vessel who ceases to be the owner or applies for the requirement of transfer of registry or any such circumstances leading to change of the registered address under sub-section (2) of section 29;

(v) the procedures for validating the transfer of mechanically propelled inland vessel from India to outside India under section 30;

(w) the time within which the owner of the mechanically propelled inland vessel shall report to the Registrar of Inland Vessels of the place where such vessel is registered, if that vessel is declared missing, destroyed, lost, abandoned or has been rendered permanently unfit for service or destined for scrapping or dismantling or sold abroad;

(x) the form of instrument creating the security for a mortgage for a loan or other valuable consideration under sub-section (1) of section 33;

(y) the manner and conditions governing mortgage and its procedures under sub-section (2) of section 33;

(z) the standards for qualification, training, training institute, examination and grant of competency certificates under sub-section (1) of section 34;

(za) the minimum manning scale applicable to different class or category of mechanically propelled inland vessels, categorised under this Act or such other laws for the time being in force in India, under section 35;

(zb) the criteria and qualifications for appointment of examiners under sub-section (1) of section 36;

(zc) the form, contents and particulars of certificate of competency specified under sub-section (3) of section 37;

(zd) the period of validity of certificate of service issued under sub-section (1) of section 38;

(ze) the form of certificate of service and the conditions subject to which such certificate is issued under sub-section (4) of section 38;

(zf) the conditions subject to which the certificate of competency shall be valid throughout India under section 39;

(zg) the intervals and manner in which the State Government shall report and update the Central Government with the information on data and details of certificates issued, granted, cancelled or suspended or such other remarks, made by the respective authority under sub-section (2) of section 41;

(zh) the criteria and standards to identify any class or category of mechanically propelled inland vessels as special category vessels based on their design, construction,

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use, purpose, area of plying, source of energy or fuelling or any other criteria under sub-section (1) of section 42;

(zi) the requirements of construction, design, survey, registration, manning, qualification, competency, or the requirements in addition to those contained elsewhere in this Act under sub-section (2) of section 42;

(zj) the specifications and requirements of signals and equipment based on classification and categorisation of mechanically propelled vessels, to be complied with by such vessels under sub-section (1) of section 47;

(zk) the fog and distress signals to be carried and used, the steering and sailing rules to be complied with and the different protocols for exhibition and display of different standards of lights, shapes and signals, by any mechanically propelled vessel plying in inland waters under sub-section (2) of section 47;

(zl) the class or category of mechanically propelled inland vessels to be equipped with navigation aids, life saving appliances, fire detection and extinguishing appliances and communication appliances under sub-section (1) of section 51;

(zm) the standards to be followed by the owner or master of any mechanically propelled inland vessel and the manner for discharge or dispose of sewage and garbage under sub-section (2) of section 52;

(zn) the standards of construction and equipment of the mechanically propelled inland vessels to ensure compliance with the requirements of the provisions of Chapter IX under sub-section (1) of section 53;

(zo) the form, validity and content of prevention of pollution certificate under sub-section (3) of section 53;

(zp) the conditions for construction, use and maintenance of reception facilities for the containment of pollution and removal of pollutants arising from spillage or discharge arising from mechanically propelled inland vessels at all cargo terminals or passenger terminals under sub-section (1) of section 54;

(zq) the purposes for Chapter X as specified in clauses (a) to (g) of section 59;

(zr) the limits of liability and the criteria in determining compensation for any claim specified in sub-section (5) of section 64;

(zs) the form, content, and the conditions subject to which a certificate of insurance is issued by the insurer to the insured under clause (c) of sub-section (1) of section 68;

(zt) the terms and conditions to be incorporated in the contract of insurance entered between insurer and insured to cover the risks, as provided in section 66, under sub-section (2) of section 68;

(zu) the terms, conditions and procedures to be complied with by insurers and insured including those specified in clauses (a) to (h) therein, under section 73;

(zv) minimum standards, terms and conditions to protect the interests and to ensure safety of service providers and service users under section 80;

(zw) the conditions for carrying the list of dangerous goods under section 81;

(zx) the terms and conditions subject to which permission of the Central Government is granted for use or employment of a vessel, registered in any country other than India, for the purposes of, carriage of goods, transportation of passengers, storage units, accommodation, floating units or for such other purposes within the inland waters under sub-section (1) of section 82;

(zy) the fees for grant of a certificate or licence under this Act similar to any certificate granted by any other foreign country in accordance with the provisions of any law for the time being in force in that country under sub-section (2) of section 82;

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(zz) the period and extent of validity of certificate granted under sub-section (2) of section 82, as specified in sub-section (3) of the said section;

(zza) any other matter which is required to be, or may be, prescribed under the provisions of this Act for the purpose of implementation and administration of such provisions.

107. (1) The State Government may, after previous publication, make rules for the provisions specified to be administered by it under this Act or as delegated to it by the Central Government for the purposes of effective implementation of the provisions of this Act.

Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the requirements for the appointment of qualified persons as pilots under clause (zk) of section 3;

(b) the fee for issuance of certificate of survey under sub-section (2) of section 12;

(c) the manner and conditions subject to which any mechanically propelled inland vessel, which has been issued with a provisional certificate of survey or endorsement may proceed on voyage or use in service, temporarily, pending the issue of certificate of survey under sub-section (2) of section 13;

(d) the manner of issue the notice of suspension of certificate of survey to the owner, operator, master, or construction yard under sub-section (2) of section 15;

(e) the functions to be performed by the Registrar of Inland Vessels in respect to the port or place of registry for which he is appointed under sub-section (2) of section 20;

(f) the manner and period in which the Registrar of Inland Vessels shall report the details of the book of registry or entries made therein, to the State Government at regular intervals, under sub-section (2) of section 21;

(g) the fee for granting the certificate of registration to the applicant under sub-section (1) of section 24;

(h) other particulars to be contained in the certificate of registration under clause (e) of sub-section (2) of section 24;

(i) the conspicuous part of the vessel where the owner shall display the official number under sub-section (3) of section 24;

(j) the form and manner in which the registered owner shall apply for a duplicate certificate to the Registrar of Inland Vessels under sub-section (1) of section 26;

(k) the fees or additional fees for applying for a duplicate certificate to the Registrar of Inland Vessels under sub-section (2) of section 26;

(l) the form, manner and period within which the owner, operator or master of the mechanically propelled inland vessel shall make an application, for entry of alterations or modifications made, in the certificate of registration, under sub-section (1) of section 28;

(m) the fee for applying to the Registrar of Inland Vessels for registration of alterations under sub-section (2) of section 28;

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(n) the conditions to be complied with and the period for such compliance to be stated in the notice of suspension issued by the Registrar of Inland Vessels under sub-section (4) of section 31;

(o) the form and manner for maintenance of registers to record, the details and data of the certificate, and the certificates specified therein, under sub-section (1) of section 41;

(p) the form of application, form of certificate of fitness and such other conditions including validity, subject to which and the manner of granting the certificate of fitness under sub-section (2) of section 43;

(q) the safety features, gears and such other measures by which any mechanically propelled inland vessel, identified as special category vessel, shall comply with and be equipped in accordance with the categorisation of such vessel, under sub-section (1) of section 44;

(r) the maximum carrying capacity of the vessel identified as special category vessel by specifying the safety waterline or the limits of load water line to keep them afloat, or such other criteria and conditions, for the safe voyage of such inland vessel under sub-section (2) of section 44;

(s) the rates of charges to be received by the owner or operator of all cargo terminals or passenger terminals, providing reception facilities shall receive charges under sub-section (3) of section 54;

(t) the form of report of compliance to be submitted by the owner or operator of the passenger or cargo terminal under sub-section (5) of section 54;

(u) the manner in which the owner, operator or master of any mechanically propelled vessel used or plying within inland waters, shall discharge the pollutants at the port reception facilities under sub-section (6) of section 54;

(v) the procedure for detaining any mechanically propelled inland vessel in connection with a claim, or an offence under section 63;

(w) the form and manner of giving information of any wreck, abandonment, damage, casualty, accident, explosion or loss occurred to or on board such a vessel while in the inland waters, to the officer in-charge of the nearest police station and to the designated authority appointed under sub-section (2) of section 74;

(x) the powers of the District Magistrate and the procedures to be followed in holding inquiry under sub-section (3) of section 75;

(y) the qualifications, criteria and consideration, fees or charges for the assessors, who have experience in the merchant service or in the navigation of the mechanically propelled inland vessels under sub-section (2) of section 76;

(z) the procedures for detention, formality, fees and conditions, if not specified in this Act, to be followed and observed by the concerned officer or authority or court, appointed or authorised or constituted under this Act, for the purpose of detaining a vessel, under sub-section (4) of section 85;

(za) the rates of fees and additional fees to be charged for the services provided under this Act, and any other charges or payment made to it against penalties of pecuniary nature to be collected by the State Government, and the intervals at which such fees, charges or penalties shall be collected, under sub-section (1) of section 89;

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(zb) the procedures, forms and format of receipts, maintenance of accounts and any other matter that is necessary for the purpose of the remittance, collection, accounts and accountability of collected fees, additional fees, charges or payment against penalties of pecuniary nature under sub-section (3) of section 89;

(zc) the manner and rates of fees or additional fees, the owner, operators or their representatives, as the case may be, shall remit under sub-section (4) of section 89;

(zd) the hierarchy of the offices of the authorised department and the powers and functions to be exercised by such offices under sub-section (3) of section 91;

(ze) the authority and obligation to administer the welfare fund constituted for the purposes of Chapter XVII under clause (c) of sub-section (3) of section 91;

(zf) such other details to be submitted by the owner or operator of non-mechanically propelled inland vessel at the office of the authorised department and the form and manner of making such submission, under sub-section (1) of section 92;

(zg) the form and manner of central data base to record the details of non-mechanically propelled inland vessels under sub-section (6) of section 92;

(zh) the form and manner of issuance of certificate of enrolment and such other document containing details of the owner, to be specified in the said certificate, under sub-section (2) of section 93;

(zi) the form and manner of exhibiting a number issued to a non-mechanically propelled inland vessel under sub-section (4) of section 93;

(zj) the basic minimum standards that may be reasonably observed during the construction of any non-mechanically propelled inland vessel under sub-section (1) of section 94;

(zk) the manner of complying with the standards of construction specified by the State Government, by any class or category of non-mechanically propelled inland vessel under sub-section (2) of section 94;

(zl) the measures to regulate the non-mechanically propelled inland vessel under section 95;

(zm) the measures to be taken by the advisory committee or officers authorised in this behalf to minimise or counter emergency under sub-section (1) of section 99;

(zn) for the purposes of implementation and administration of Chapter XVII of this Act, pertaining to non-mechanically propelled inland vessels;

(zo) any other matter which is required to be, or may be, prescribed under the provisions of this Act.

108. The Central Government may, for carrying into execution of this Act in the State, give directions to the State Government, and the State Government shall abide by such directions.

Power of
Central
Government
to give
directions.

109. (1) No suit, prosecution or other legal proceeding shall lie against any person or officer appointed or authorised under this Act, in respect of anything done or intended to be done in good faith under this Act.

Protection of
action taken
in good faith.

(2) For the purpose of claiming immunity under sub-section (1), the officers appointed or authorised under this Act, shall perform and carry out the respective functions and responsibilities, with utmost care and due diligence.

110. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made under this section after the expiry of a period of three years, from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Consistency with other laws.

111. (1) The provisions of this Act shall be in addition to, and not be construed in derogation of the provisions of any other law, and shall be construed as consistent with such law, for the time being in force.

(2) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force in the whole of India or restricted to the application within the territory of any State, the provision of this Act shall prevail to the extent of such conflict.

Suspension or alteration of application and operation of Act.

112. (1) The Central Government may, by notification, declare that all or any of the provisions, under this Act or the rules made thereunder—

(a) other than that provided for safety, manning and prevention of pollution, shall not apply to any specified class or category of the mechanically propelled inland vessels; or

(b) shall apply to any specified class or category of the mechanically propelled inland vessels with such modifications, as may be specified in the notification.

(2) Notwithstanding anything contained in this section, the Central Government may, by notification, suspend or relax to a specified extent, either indefinitely or for such period as may be specified in that notification, the operation of all or any of the provisions of this Act.

Laying of rules and notifications.

113. (1) Every rule made or notification issued under this Act, by the Central Government shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(2) Every rule made or notification issued under this Act by the State Government shall, as soon as after it is made or issued, be laid before the State Legislature.

Repeal and savings.

114. (1) The Inland Vessels Act, 1917 is hereby repealed.

1 of 1917.

(2) Notwithstanding the repeal of the enactment referred to in sub-section (1),—

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under the enactment hereby repealed shall, if it is not inconsistent with the provisions of this Act, continue to be in force unless and until revoked, and shall have effect as if it had been issued, made or granted under the corresponding provision of this Act;

(b) any officer appointed and anybody elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted unless specifically removed or replaced by appointment of officer or offices, as the case may be, under this Act;

(c) any document referring to the enactment hereby repealed shall be constructed as referring to this Act or to the corresponding provision of this Act;

(d) any fine levied or penalty imposed under the enactment hereby repealed may be recovered as if it had been levied under this Act;

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(e) any offence committed under the enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

(f) sailing vessels or sailing boats registered under the enactment hereby repealed shall be deemed to have been registered under the Act;

(g) mortgages of any mechanically propelled inland vessels recorded in any register book maintained at any port in India under the enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

(h) any licence, certificate of competency or service, certificate of survey, licenses or any other certificate or document issued, made or granted under the enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be.

X of 1897. (3) The matters specifically provided in this section, shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897.

ANOOP KUMAR MENDIRATTA,
Secretary to the Govt. of India.



- 7.1.30 Rajgarh
- 7.1.31 Vidisha
- 7.1.32 Bhopal
- 7.1.33 Sehore
- 7.1.34 Raisen
- 7.1.35 Betul
- 7.1.36 Harda
- 7.1.37 Hoshangabad
- 7.1.38 Katni
- 7.1.39 Jabalpur
- 7.1.40 Narsimhapur
- 7.1.41 Dindori
- 7.1.42 Mandla
- 7.1.43 Chindwara
- 7.1.44 Seoni
- 7.1.45 Balaghat
- 7.1.46 Alirajpur
- 7.1.47 Anuppur
- 7.1.48 Ashoknagar
- 7.1.49 Burhanpur
- 7.1.50 Singroli

8.0 MAJOR WETLAND TYPES OF MADHYA PRADESH

9.0 IMPORTANT WETLANDS OF MADHYA PRADESH

- 9.1 Bansagar Lake
- 9.2 Bargi Dam
- 9.3 Barna Reservoir
- 9.4 Bhoj Wetland
- 9.5 Chandrapata Lake
- 9.6 Chiklod Lake
- 9.7 Gandhi Sagar Reservoir
- 9.8 Halali Dam
- 9.9 Indira Sagar Reservoir
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**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH AT BHOPAL (MADHYA PRADESH)**

**ORIGINAL APPLICATION NO. 82/2022(CZ)
(I.A. No. 68/2022)**

IN THE MATTER OF:

DR. SUBHASH C. PANDEY

S/o Dr. S.K. Pandey
R/o- HIG 1/8 Shivani Complex,
6 no. Stop, Shivaji Nagar,
Bhopal-462016, Madhya Pradesh

...Applicant

Versus

1. STATE OF MADHYA PRADESH

Through the Chief Secretary, Mantralaya,
Vallabh Bhawan, Bhopal- 462004

2. THE PRINCIPAL SECRETARY,

Tourism Department,
Government of Madhya Pradesh
Mantralaya, Vallabh Bhawan, Bhopal- 462004

3. THE PRINCIPAL SECRETARY,

Environment Department,
Government of Madhya Pradesh
Mantralaya, Vallabh Bhawan, Bhopal- 462004

4. THE COMMISSIONER,

Urban Administration and Development Department,
MP Palika Bhawan, Shivaji Nagar
Bhopal- 462016 (M.P.)

5. THE COMMISSIONER,

Bhopal Municipal Corporation
2nd Floor, A Wing, ISBT Campus,
Dr. Ambedkar Marg, Bhopal- 462023 (M.P.)

6. THE EXECUTIVE DIRECTOR

Bhopal Smart City Development Corporation Limited
Kalibadi Road, Sector A, Barkheda
Bhopal- 462023 (M.P.)

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7. THE MEMBER SECRETARY,
M.P. State Wetland Authority,
EPCO Paryavaran Parisar, E-5,
Arera Colony,
Bhopal- 462016 (M.P.)

8. THE MEMBER SECRETARY,
M.P. Pollution Control Board
Paryavaran Parisar, E-5, Arera Colony,
Bhopal- 462016 (M.P.)

9. THE MEMBER SECRETARY,
M.P. State Biodiversity Board,
26, Kisan Bhavan, Arera Hills,
Bhopal, 462011(M.P.)

...Respondent(s)

Counsel for Applicant:

Dr. Subhash c. Pandey, applicant in person

Counsel for Respondent(s):

Mr. Sachin Kumar Verma, Advocate for State of M.P.

Ms. Parul Bhadoria, Advocate for MPPCB

Mr. Yadvendra Yadav, Advocate for CPCB

Mr. Qasim Ali, Advocate for R-2

Mr. Brajesh Sharma, RO, MPPCB

CORAM:

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

Reserved on: July 18, 2023

Pronounced on: September 12, 2023

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. This Original Application (hereinafter referred to as 'OA') under Sections 14, 15, 17 and 18 of National Green Tribunal Act, 2010 has been instituted by Dr. Subhash C. Pandey, a resident of Bhopal city, State of Madhya Pradesh (hereinafter referred to as 'applicant'). He claims to be an environmentalist having functioned earlier as Executive Vice

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Chairperson of 'Haryana Pond and Waste Water Management Authority' and has raised grievance of serious damage and deterioration being caused to Bhopal Lake, commonly as 'Bhoj Wetland' comprising 'Upper Lake' and 'Lower Lake' and other water bodies due to operation of motorized boats and cruise boats. The complaint is more particularly concerned with the damage said to have caused to Upper Lake.

2. Bhopal Wetland is a recognized Ramsar site, a wetland of international significance. Upper Lake is an important source of potable water to the city, spread over about 31 km² and fulfills the need of drinking water of people of Bhopal City, numbered more than 12 lakhs. Upper Lake also has a great importance to address local climate, vegetation, ground water depletion and ground water contamination of the surrounding area. It has more than 15 kinds of fishes and several vulnerable animals like turtles, amphibians and aquatic invertebrates. More than 2500 migratory birds across the world used to come regularly to this Wetland for breeding and dispersal of seeds, leading to maintenance of biodiversity along their routes. Spill way of Upper Lake is known as 'Kaliasot dam' which is again an alternate drinking water source for the city. Water of 'Kaliasot Dam' is used for agricultural purposes i.e., irrigation of around 4,588 hectares of land. Catchment of Upper Lake is extended in 361 km² area while water spread area is restricted to 31 km². In Bhopal Master Plan, 2005, Clause 2.55 - page 39, it is said that no recreational activities should be permitted in the water of Upper Lake since it is fundamentally used for drinking purposes and recreational activities may result adversely on the quality of water of Upper Lake.

3. Government of Madhya Pradesh issued a Notification dated 16.03.2022 which refers to Wetland (Conservation and Management) Rules, 2017 (hereinafter referred to as **Wetland Rules, 2017**) issued by

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Government of India, Ministry of Environment, Forest and Climate Change (hereinafter referred to as 'MoEF&CC') in exercise of powers under Section 3(1) and (2)(v) and (3) read with Sections 25 and 23 of Environment (Protection) Act, 1986 (hereinafter referred to as 'EP Act, 1986'). The said Notification dated 16.03.2022 appended maps showing 'Bhoj Wetland' and its 'Zone of Influence' area by way of maps no. 1, 2 and 3 in appendix 'A' which were approved by Madhya Pradesh State Wetland Authority (hereinafter referred to as 'MPSWA') in its meeting dated 01.02.2022. In view of the aforesaid maps, recommendations were made with regard to 'Prohibited', 'Regulated' and 'Permitted' activities in the wetland, within 50 meters of the wetland boundary and in the Zone of Influence.

4. Notification dated 16.03.2022 says that State Government has granted administrative approval to the Full Tank Level (hereinafter referred to as 'FTL') boundary of wetland and therefrom the area of 50 meters and Zone of Influence is shown in maps A-1, 2 and 3. On the basis of the said maps, area of Bhoj Wetland, as per FTL, is determined as 3946.33 hectares (Upper Lake 3872.43 hectares + Lower Lake 73.90 hectares) and the said determination is approved by State Government. Notification dated 16.03.2022 also prescribes the protected distances of urban, rural and Kolans River as also the streams and drains (major and minor streams) meeting Bhoj Wetland and Zone of Influence as under:

- i. शहरी क्षेत्र की ओर BWL के FTL के आसपास 50मी का बफर - मानचित्र क्र. 1
- ii. ग्रामीण क्षेत्र की ओर BWL के FTL के आसपास 250मी. बफर- मानचित्र क्र. 2
- iii. कोलांस नदी के आसपास 250मी. बफर - मानचित्र क्र.3
- iv. कैचमेंट प्रमुख स्ट्रीम के आसपास 50मी बफर - मानचित्र क्र.3
- v. कैचमेंट के माइनर स्ट्रीम के आसपास 09मी बफर - मानचित्र क्र.3"

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English Translation by Tribunal:

- i. 50m buffer around FTL of BWL towards urban area - Map no. 1

- ii. 250m buffer around FTL of BWL towards rural area - Map no. 2
- iii. 250m buffer around Kolans River - Map no. 3
- iv. 50m buffer around the catchment main stream - Map No. 3
- v. 09m buffer around minor stream of catchment - Map No. 3"

5. The prohibited, regulated and permitted activities mentioned in para 4 - A, B and C, respectively, of Notification dated 16.03.2022 are made effective as under:

"A. प्रतिबंधित गतिविधियां (Prohibited Activities)

वेटलैंड नियम 2017 का पालन सुनिश्चित करने हेतु भोज वेटलैंड एवं उसके ZoI में Prohibited गतिविधियों का निम्नानुसार निर्धारण किया जाता है। भोज वेटलैंड के Full Tank level (FTL) से 50 मी. तक निर्माण व अन्य गतिविधियां निम्नानुसार पूर्णतः प्रतिबंधित की जाती हैं -

Prohibited activities in Bhoj Wetland and its ZoI are determined to ensure compliance with the Wetland Rules 2017 as follows: 50 meters from the Full Tank Level (FTL) of Bhoj Wetland and construction & other activities are completely restricted as follows -

(English Translation by Tribunal)

i. Conversion for non-wetland uses including encroachment of any kind;	i. किसी भी किस्म के अतिक्रमण सहित गैर वेटलैंड उपयोग हेतु परिवर्तन
ii. Setting up of any industry and expansion of existing industries;	ii. किसी भी उद्योग को स्थापित करना एवं विद्यमान उद्योगों का विस्तार करना
iii. Manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/ Genetically Engineered Organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement)	iii. निर्माण एवं अपशिष्ट प्रबंधन नियम 2016 के अंतर्गत आने वाले निर्माण और अपशिष्ट का विनिर्माण या निपटान, परिसंकटमय रसायन के विनिर्माण, भण्डारण और आयात निर्माण नियम, 1989 या परिसंकटमय सूक्ष्म जीवों, आनुवंशिक रूप से निर्मित जीवों या कोशिकाओं का उपयोग, आयात, निर्यात, और भण्डारण संबंधी नियम, 1989 या परिसंकटमय अपशिष्ट (प्रबंधन, और सीमा पार संचालन) नियम 2008 के अंतर्गत आने वाले परिसंकटमय पदार्थ, ई- अपशिष्ट,

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<p><i>Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;</i></p> <p>iv. <i>Solid waste dumping;</i></p> <p>v. <i>Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;</i></p> <p>vi. <i>Any construction of a permanent nature except for boat jetties within fifty metres (50) from the mean high flood level observed in the past ten years calculated from the date of Commencement of these rules; and,</i></p> <p>vii. <i>Poaching.</i></p>	<p><i>(प्रबंधन) नियम, 2016 के अंतर्गत आने वाले ई-अपशिष्ट</i></p> <p>iv. <i>ठोस अपशिष्ट का निष्पादन;</i></p> <p>v. <i>उद्योगों, शहरों, कस्बों, गांवों और अन्य मानव बस्तियों, से अशोधित अपशिष्ट और बहिस्रावों का निष्पादन</i></p> <p>vi. <i>किसी भी स्थायी प्रकृति का निर्माण सिवाय नाव घाटों के, तालाब के 50 मीटर के भीतर प्रतिबंधित रहेंगे।</i></p> <p>vii. <i>अवैध शिकार</i></p>
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B. विनियमित गतिविधियां (Regulated Activities) -

नगर निगम, भोपाल द्वारा भोज वेटलैंड एवं उसके Zone of Influence में मलजल उपचार संयंत्र / सीवेज पंप हाउस (STP/SPH) स्थापित किये जाने के प्रस्ताव को विनियमित गतिविधियों में सम्मिलित किया जाता है। वेटलैंड नियम 2017 का पालन सुनिश्चित करने हेतु भोज वेटलैंड एवं उसके Zol में Regulated गतिविधियों का निम्नानुसार निर्धारण किया जाता है-

The proposal to establish Sewage Treatment Plant/Sewage Pump House (STP/SPH) in Bhoj Wetland and its Zone of Influence by Municipal Corporation, Bhopal is included in the regulated activities. The regulated activities in Bhoj Wetland and its Zol are determined as follows to ensure compliance of the Wetland Rules 2017, -
(English Translation by Tribunal)

<p>i. <i>Subsistence level biomass harvesting (including traditional practices);</i></p> <p>ii. <i>Sustainable culture fisheries practices (in private lands);</i></p> <p>iii. <i>Plying of non-motorized boats;</i></p> <p>iv. <i>Desilting, in case where wetlands inflow regimes and water-holding capacity are impacted by siltation (note that</i></p>	<p>i. <i>जीवन निर्वाह योग्य मात्रा में बायोमास निकालना (परंपरागत तरीकों सहित)</i></p> <p>ii. <i>संथारित मछलीपालन</i></p> <p>iii. <i>गैर-मोटर चालित नावों का संचालन</i></p> <p>iv. <i>डीसिल्टिंग डिवीडिंग करते समय यह ध्यान रखा जाए कि वेटलैंड के जल स्रोत एवं जल ग्रहण क्षमता में कोई प्रभाव न हो (नोट-तालाब गहरीकरण एवं डीसिल्टिंग दो अलग-अलग क्रियाकलाप हैं)।</i></p>
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<p>'deepening' activities are not the same as 'desilting'); &</p> <p>v. Construction of temporary nature.</p> <p>vi. Construction of STP/SPH by Municipal Corporation, Bhopal</p>	<p>v. अस्थाई प्रकृति के निर्माण।</p> <p>vi. नगर निगम, भोपाल द्वारा मलजल उपचार संयंत्र/सिवेज पम्प हाउस का निर्माण।</p>
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C. अनुज्ञात गतिविधियां (Permitted Activities)-

वेटलैंड नियम 2017 का पालन सुनिश्चित करने हेतु भोज वेटलैंड एवं उसके Zol में Permitted गतिविधियों का निम्नानुसार निर्धारण किया जाता है।

The permitted activities in Bhoj Wetland and its Zol are determined to ensure compliance with Wetland Rules 2017, as follows.

(English Translation by Tribunal)

<p>भारत सरकार द्वारा जारी वेटलैंड नियम क्रियान्वयन मार्गदर्शिका (15.क्र. पृ) 2020 अनुसार ऐसी गतिविधियां जिनके कारण वेटलैंड के Wise Use की परिकल्पना साकार होती है, वेटलैंड एवं Zol में Permit की जा सकती हैं। उपरोक्त मार्गदर्शिका अनुसार निम्नलिखित गतिविधियां भोज वेटलैंड और उसके Zol में Permitted Activities की श्रेणी में होंगी-</p> <p>According to the Wetland Rules Implementation Guide (15 No. Page) 2020 issued by the Government of India, such activities which fulfill the concept of Wise Use of Wetland can be permitted in Wetland and Zol. According to the above guide, the following activities will be in the category of Permitted Activities – research work in Bhoj Wetland and its Zol.</p> <p>(English Translation by Tribunal)</p> <p>i. Ecological rehabilitation and rewilding of nature;</p> <p>ii. Wetlands inventory, assessment and monitoring;</p> <p>iii. Research;</p> <p>iv. Communication, environmental education and participation activities;</p> <p>v. Management planning;</p>	<p>i. पारिस्थितिक पुनर्वास एवं प्रकृति का पुनर्निर्माण</p> <p>ii. वेटलैंड इन्वेन्ट्री मूल्यांकन एवं मॉनीटरिंग</p> <p>iii. शोध कार्य</p> <p>iv. संप्रेषण, पर्यावरण शिक्षा और जन-भागीदारी कार्यकलाप</p> <p>v. प्रबंधन नियोजन</p> <p>vi. वेटलैंड आधारित पक्षियों का संरक्षण एवं उनके प्राकृतिक रहवास का प्रबंधन</p> <p>vii. समुदाय आधारित ईको-टूरिज्म (कम से कम निर्माण गतिविधियां सहित)</p> <p>viii. पुनर्योजी क्षमता अनुसार वेटलैंड के प्राकृतिक उत्पादों का संतुलित दोहन</p> <p>ix. जलवायु परिवर्तन समस्या के निदान के लिए प्राकृतिक</p>
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<p>vi. <i>Habitat management and conservation of wetland-dependent species;</i></p> <p>vii. <i>Community-based ecotourism (with minimum construction activities);</i></p> <p>viii. <i>Harvesting of wetlands products within regenerative capacity; and,</i></p> <p>ix. <i>Integrating wetlands as nature-based solutions for climate change mitigation and adaptation.</i></p>	<p>संसाधन आधारित अनुकूलन एवं शमन हेतु वेटलैण्ड का एकीकरण</p>
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6. Notification dated 16.03.2022 is said to be effective from the date of issue of the administrative order i.e., 16.03.2022. The said Notification declares plying of 'non-motorised boats' as a 'Regulated Activity'.

7. Applicant has said that without looking to the importance of Upper Lake of Bhoj Wetland and the statutory prohibition and restrictions etc., respondents State Government and its authorities are adamant to damage water bodies like Upper Lake (of Bhoj Wetland) and other bodies.

8. Bhopal Smart City Development Corporation Limited (hereinafter referred to as **BSCDCL**) i.e., respondent 6 issued a tender notice dated April 2021 for development and operation of 'Cruise restaurant' at Upper Lake of Bhopal.

9. Madhya Pradesh Tourist Board (hereinafter referred to as **MPTB**) issued a notice dated 21.02.2022 inviting 'Expression of Interest' for organizing/operating Cruises at various water bodies of State of Madhya Pradesh giving details of water bodies, river(s), lake(s) and reservoirs, as under:

S.No.	Name of Water Bodies	Place
1	Water body of Indra Sagar Dam (including Narmada and other tributaries)	Khandwa

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2	Water body of Omkareshwar Dam (Narmada and other tributaries)	Mandhata, Khandwa
3	From Barwani Point to Sardar Sarovar Dam – Statue of Unity (River Narmada)	Barwani
4	Water body of Tawa Dam (including Tawa, Denawa and other tributaries)	Hoshangabad
5	Water body of Bargi Dam (including Narmada and other tributaries)	Jabalpur
6	Water body of Ban Sagar Dam (including Son and other tributaries)	Shehdol
7	Water body of Gandhi Sagar Dam (including Chambal and other tributaries)	Mandsour
8	Water body of Manikheda Dam (including Sindh and other tributaries)	Shivpuri
9	Water body of Halali Dam (including Halali and other tributaries)	Raisen
10	Water body of Chandpatha Dam (District Shivpuri)	Shivpuri
11	Water body of Chaural Dam (including Chaural and other tributaries)	Mhow, Indore
12	Water body of Barna Dam (including Barna and other tributaries)	Raisen
13	Water body of Mann Dam (Dhar)	Dhar
14	Water body of Jobat Fata Dam , (including Hathni River and other tributaries)	Alirajpur
15	Water body of Dholabad Dam , (including Jamadh River and other tributaries)	Ratlam
16	Water body of Tigra Dam , Gwalior	Gwalior

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17	Water body of Govindgarh, Rewa	<i>Rewa</i>
18	Water body of Kolar Dam, Bhopal	<i>Bhopal</i>
19	Water body of Machagora, Chhindwara	<i>Chhindwara</i>
20	Water body of Sapna Dam, Betul	<i>Betul</i>

10. Without any statutory permission, clearance, consent or No Objection Certificate (hereinafter referred to as 'NOC') from the Competent Authorities, BSCDCL and MPTB started construction activities within the prohibited area of Upper Lake and even trees were cut illegally. Operation of cruise ship/boat also started without statutory permissions. These facts were published in newspapers, copies whereof have been filed collectively as annexure A-6.

11. Action of MPTB in organizing Cruises in rivers, lakes and water bodies which mainly comprise river Narmada and its tributaries ignores the fact that rivers, lakes and water bodies are very sensitive for State of Madhya Pradesh; Narmada is the only perennial river providing water for drinking, agriculture and fishing activities to millions of people regularly and round the year and activities like running of Cruises would cause damage to the quality of water of river and its tributaries. It is really reprehensible that a government department of State itself is launching Cruise boats and Cruise restaurants in the water of River Narmada which is considered to be a very pious and holy river and various religious rituals are performed at its bank at various places. The damage caused from Cruise ships/boats is very drastic. Even a small Cruise ship/boat carrying hundreds of passengers is comparable with a floating colony where volumes of waste is generated besides sewage on account of various daily

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activities and it is hazardous to environment in many ways.

12. Reference is made by applicant to the research report of a German Environmental Organization, publishing its findings that pollution from Cruise ship is massive. Ships run by motors using dirties fuel i.e., heavy fuel oil which is toxic and contains a lot of dirty stuff. Even a mid size Cruise ship can be used as much as 150 tons of fuel every day emitting as much particulate as one million cars. Cruise ships, in fact, are a catastrophe for environment. They dump toxic waste into water, fill the planet with Carbon Dioxide and kill marine wildlife. Eventually, Cruise ships contaminate potable water of river and pollute environment like anything. Carbon emissions and dangerous particulates emitted by Cruise ships are caused by the quantity and quality of the fuel used by these floating citadels i.e., Cruise ships. It increases substantially, level of nitrogen oxide which is linked to acid rain, higher rates of cancer and other forms of respiratory diseases.

13. Applicant states that the act of organizing/operating/running of Cruises in rivers, lakes and tributaries etc. is direct violation of the provisions of EP Act, 1986, Water (Prevention and Control) Act, 1974 (hereinafter referred to as **Water Act, 1974**), Air (Prevention and Control) Act, 1981 (hereinafter referred to as **Air Act, 1981**) and Biological Diversity Act, 2002 (hereinafter referred to as **BD Act, 2002**).

14. A research paper was also published on the case study of Narmada River system in India by Utpal Bhaumik, M.K. Mukhopadhyay, N.P. Shrivastava, A.P. Sharma and S.N. Singh under Central Inland Fisheries Research Institute, Barrackpore, Kolkata (hereinafter referred to as **CIFRI**). Research paper says that Narmada River, synonymous with Goddess Narmada Mai, has immense aesthetic and religious significance

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to Indians, especially the people of central and western regions. River originates near Amarkantak at about 1050 meters above Mean Sea Level (hereinafter referred to as **MSL**) in the Maikaley highlands, flows westward through the hilly terrain and highlands of Madhya Pradesh, and descends to the Potamon plains in Gujarat before merging with the Gulf of Cambay on the West coast. Total length of river is 1312 km, and wholly fed with run-off discharge from a 98,796 km² catchment in Madhya Pradesh, Gujarat and Maharashtra. Fish fauna of Narmada River system has recorded 40 species from Satpura range, and Karamchandani etc. in 1941 which in 1990 came to be identified as 77 species from the Upper and Middle zones.

15. In 1991, another Researcher prepared a list of 84 species of fishes in the system. The man-made obstructions created due to various valley projects have resulted in dropping of riverine production indicating adverse impact on the natural river flow and subsequent hydro-ecological changes. The annual catch during pre-dam period was much more than it was in post-dam period. The changes in population structure of fish occurred due to alteration in habitat conditions. Any man-made activity or external activity affecting hydro-ecological condition of river water is bound to affect flora and fauna. Eco-region of River Narmada retains large connected blocks of habitats for many Indian large animals like tiger, common leopard, garu, wild dog, sloth bear and black buck. Only solution for conservation and protection of aquatic lives and precious wild life is to stop pollution in river Narmada. Launching of Cruise in River Narmada, instead of protection, will cause enhance environmental damage and, therefore, Cruises need to be prohibited from their operation in River Narmada, its tributaries and protected wetlands/water bodies.

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16. Increase in Tourism by itself may be welcomed but if there is any

hindrance in the nesting process of turtles and other aquatic animals and nearby natural habitats of wild animals then such tourism activities have to be restricted, checked and properly monitored. Unmindful, casual and shallow approach with an eye only on Tourism will have potential negative impact on aquatic and land biodiversity of the river. Fishing activities will have to be checked in the 'water paths' of Cruise ships. Life of dependents on riverine ecology will also be adversely affected which would include Adivasis and fishermen.

17. When applicant came to know about launching of Cruises in holy River Narmada and its tributaries, he drew attention of Principal Secretary, Department of Environment of Madhya Pradesh Government to the ecological and environmental hazards likely to be caused by such activities by sending letter/representation dated 01.09.2022 (annexure A-10 at page 53 of paper book). Similar complaints dated 01.09.2022 were sent to Commissioner, BMC; Executive Director, BSCDCL; Principal Secretary, Tourism Department, Government of Madhya Pradesh and Member Secretary, MP State Wetland Authority.

18. Pursuant to applicant's complaint dated 01.09.2022, Madhya Pradesh Pollution Control Board (hereinafter referred to as 'MPPCB') sent a letter dated 21.09.2022 to Deputy Director (Adventure), MPTB, requiring it to response to the objections raised by applicant and provide details of statutory permissions etc., if any, obtained by it.

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19. Similar query was made by MPSWA vide letter dated 20.09.2022 from Executive Director, MPTB Bhopal and Commissioner, BMC.

20. However, ignoring all such objections and without responding to the queries made by MPPCB and MPSWA, the BMC, BSCDCL and MPTB had continued in their activities and it has been reported in the newspapers

that construction on about 10,000 sq.ft. of land has been raised on the wetland site and zone of influence of Bhoj wetland and no permission from any Statutory Regulator has been obtained. These newspaper reports collectively have been filed as annexure A-13, A-14 and A-15.

21. Relying on Apex Court's decision in *Hinchlal Tiwari vs. Kamala Devi and others*, (2001) 6 SCC 496, *M.K. Balakrishnan (1) and others vs. Union of India and others*, (2009) 5 SCC 507, *State of Orissa vs. Government of India & Another* (2009) 5 SCC 492, *Indian Council for Enviro-Legal Action etc. vs Union of India and Others AIR 1996 SC 1446* and *Vellore Citizen Welfare Forum v Union of India, 1996(5)SCC647*, applicant has pleaded that clean environment including river water is a fundamental right of citizen under Article 21 of Constitution of India and State is under an obligation to protect and improve the environment, safeguard forest and wildlife as per the directive principles stated in Article 48-A part IV of the Constitution and also under fundamental duty to protect and improve natural environment including forests, lakes, rivers and wildlife as provided in Article 51-A(g) of the Constitution.

22. It is also stated by applicant that during rainy season, Cruise, operating in Upper Lake, was damaged due to heavy rains and due to leakage and partial drowning of Cruise, there was spillage of more than 200 liters of diesel into the water body and polluted water was supplied to citizens of Bhopal causing health hazards to the residents of the city. The Operators did not obtain any technical certificate against guarantee of leakage and spillage proof technology and there is always probability of spillage in Cruise while re-filling the storage tank.

23. Applicant has prayed that launching, sailing and operation of Cruise

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ships, Cruise restaurants and diesel motor boats in Upper Lake Bhopal and other drinking water reservoirs/water bodies of State of Madhya Pradesh including holy river Narmada be directed to be stopped; all construction activities in the wetland area/flood plain zones of rivers, Zone of Influence of wetlands including green belt should be stopped; penal and punitive actions be taken against erring respondents and their officials; and appropriate environmental compensation be assessed against violators on the Principle of 'Polluter Pays'.

24. Tribunal looked into the complaint of applicant and considered the same in its order dated 21.10.2022 and issued notice to the respondents requiring them to file their response.

25. Tribunal also issued notice on IA 68/2022 whereby prayer for interim order for stopping construction activity was made and observed that it expects that the authority shall follow Guidelines under Water Act, 1974 and Air Act, 1981. The authorities were directed to file their objections, if any, to IA 68/2022 within one week.

26. It appears that MPPCB, on its own, constituted a joint Committee comprising Shri Brijesh Sharma, Regional Officer, Bhopal, Shri A.K. Bisen, Executive Engineer, Bhopal and Shri Salman Khan, Sub-Engineer, MPPCB, Bhopal who inspected the site of Upper Lake on 22.11.2022 and submitted an inspection/action taken Report observing that a Cruise is operating in Upper lake at the capacity of 80 passengers; installed with dual diesel engine of 125 HP capacity; one Beta Marine make DG set of 12.3 KVA is installed for power back up; Cruise ship operation starts at 2 pm every day and as per the information provided by MPTD, generally there is one trip on working days and 3-4 trips on holidays. On other aspects, Committee said that there was no pollution or wastage on the

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water surface and quality of water of Upper Lake is also regularly monitored by MPPCB under National Water Monitoring Programme (hereinafter referred to as 'NWMP') of Central Pollution Control Board (hereinafter referred to as 'CPCB'). The observations made in the said report read as under:

1. *The Upper Lake is situated in the western part of Bhopal, The Lake is located at latitude "23.2429" N and longitude "77.38119" E.*
2. *The main source of water in the Upper Lake is surface runoff generated due to rainfall in its catchment area. The Upper Lake is having an area of approx 31 Sq. Km.*
3. ***Presently one Cruise ship is operated by MP Tourism deptt, Bhopal from Boat Club location on Upper Lake.***
4. ***Cruise ship is having two floors with sitting arrangement. No outside food is allowed on the cruise.***
5. ***Food is supplied by Wind & waves restaurants of MP Tourism deptt and served in the dining room covered from all side.***
6. *Check post at the entry of cruise is setup for checking of passengers by staff of Cruise ship for not taking food with us. Instructions and sign boards are placed on the cruise.*
7. *The details of the cruise are as under:*
 - i. ***The cruise having the capacity of 80 Passenger.***
 - ii. ***Cruise is installed with dual diesel engine of 125 HP capacities of John deer make.***
 - iii. *As per the specification, diesel engines are designed for marine purposes with leakage and spillage proof technology.*
 - iv. ***The water is used as lubricant in the engine shaft.***
 - v. ***One Beta Marine make DG set of 12.3 KVA is installed for power back up.***
 - vi. *These engines are designed with no emission vent.*
 - vii. *The diesel engine and DG set are installed within the enclosed area of the cruise with leak proof arrangement.*
 - viii. *CCTVs are fitted in the Cruise ship for monitoring the working of engine and passenger area.*

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- ix. *One urinal is provided with waste water collection tank of 100 litres capacity.*
 - x. *The waste water tank is detached from the cruise and sent to Nagar Nigam for further disposal and treatment.*
 - xi. *For solid waste collection 03 nos. of colour coded dustbins are provided on the cruise.*
 - xii. *Sufficient number of staffs is deputed on cruise for cleaning and disposal of waste material and for safety purposes.*
 - xiii. *A wired mesh with long handle is also available at the cruise for collection of debris if found floating on the water.*
 - xiv. *No spillage or seepage of diesel is observed on and near the engine area. Also no traces are observed on the floor where engine is mounted.*
8. *Operation of the cruise ship trip starts from 2:00 PM every day. As per the information provided by M P Tourism deptt in general there is one trip on working days and 3-4 trips on holidays.*
 9. *The area near the Boat club is found clean from garbage and proper dust bins are found installed at suitable places. Nagar Nigam vehicle regularly picked the solid waste from this area.*
 10. *No floating waste is observed on the surface of upper lake water near the cruise.*
 11. *The intake water supply points of upper lake are marked on Google map and enclose as Annexure - II*
 12. *The water quality of Upper Lake is regularly monitored by MPPCB under National Water Monitoring Programme (NWMP) of Central Pollution Control Board. Comparing the analysis reports of previous years, the quality of upper lake water falls between A to B category. The reports are enclosed as Annexure - III*
 13. *As per above observations no visible impact is observed on the upper lake."*
27. Applicant filed a detailed objections dated 07.12.2022 to the above report of MPPCB stating that no scientist was involved during visit; the report is confined to Upper Lake Bhopal though applicant has referred to 21 precious drinking water bodies of State including Upper Lake for consideration; report is superficial by way of combined site visit along with the officials of MPTB and is not an independent Report; Committee Report

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does not show anything about the amount of Fast Moving Consumer Goods and non- Fast Moving Consumer Goods packaging like plastic etc. found at Cruise during inspection; no details of diesel storage tank capacity is given; no certificate is referred giving guarantee of leakage and spillage proof technology of Cruise and in fact, no technology is evolved which claims leakage and spillage proof; while filling diesel in storage tank, task performed is manual and there is always probability of spillage of diesel/fuel in the Cruise or the water body; report wrongly says that water is used as "lubricant" in engine shaft in as much as water cannot be served as a lubricant; in fact, it is used as "coolant" for the engine, and this will also affect water quality of Upper Lake badly which in turn will affect aquatic life; there is violation of Section 24(1)(a) of Water Act, 1974 but no reference is mentioned thereof; there is a false statement that engines are designed with no emission vent in as much as three diesel engines were installed in the Cruise ship and basic theory of combustion of fuel is based on to create power which will indeed generate some emissions; emissions will increase when diesel engine gets older; no diesel engine is designed for 100% combustion efficiency; emission/common gaseous pollutants from a diesel engine are unburnt hydrocarbon (HC), carbon monoxide (CO), nitrogenous oxides (NOx) and particulate matter (PM); these hazardous emissions when come in contact of water vapours and dissolved in water, will produce mineral acids and increase acidity of the potable water which is measured as hydrogen in concentration (pH); drinking water body should always be having pH in the range of 6.5 to 8.5; report does not mention about frequency of maintenance of DG set still says that DG sets with leak proof arrangement have been installed; factum of CCTV in the Cruise ship is mentioned for monitoring working of engine and passenger area and does not explain how CCTVs are helpful to monitor water quality of Upper Lake, before and after Cruise movement, air quality and possible



leakage from the ship into water and damage to aquatic life by the engine propeller which is submerged in the water; propeller coupled with 125 HP diesel engine shall cause potential damage to aquatic life, flora and fauna; decrease biodiversity of the precious water body which has already been deteriorated by many reasons; Board visit was planned with the involvement of MPTB officials and to suggest that there was no seepage or oil spillage on the engine area or floor of the Cruise is nothing but a misrepresentation and false; report has been drafted/prepared by MPPCB officials only to favour MPTB particularly when no such Report was called upon by this Tribunal vide order dated 21.10.2022 and instead respondents were directed to file their response to OA; Report also ignores the fact as to when Cruise ship closes everyday and how much diesel it consumes and create sewage and other waste everyday as no such register was maintained; applicant himself has seen sailing of the same Cruise ship at around 9:00 pm night in very high intensity of bright flood light of more than 1500 lux along with very strong noise pollution of more than 110 dB on Sunday (04.12.2022); sampling from only 4 stations of a huge water body spread over 31 square kilometer cannot justify the alleged monitoring of water quality by MPPCB; and the Report shows insincerity and dutyness on the parts of officials of MPPCB.

Reply dated 12.12.2022 by Respondent 1, 3 and 7:

28. On behalf of respondent 1 i.e., State of Madhya Pradesh, Chief Secretary), respondent 3 i.e., Principal Secretary, Tourism and respondent 7 i.e., Member Secretary, MPSWA, reply dated 12.12.2022 has been filed collectively. The reply states that MPSWA was constituted vide order dated 02.01.2018 as per Rules 5(1) of Wetland Rules, 2017; MPSWA is a statutory body enjoying with powers and functions under Rule 5(4) of Wetland Rules, 2017; Bhoj Wetland (Upper and Lower Lake) is a wetland

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designated as Ramsar Site of State of MP since 2002; Wetland rules, 2017 are applicable to Bhoj Wetland; MPSWA has regularly written letters to Collector BMC and other stakeholders to ensure compliance of Wetland Rules, 2017, copy of such letters dated 20.12.2021, 04.05.2022 and 16.06.2022, collectively, are filed as annexures R-1/2; MoEF&CC issued guidelines in 2020 to ensure effective implementation of Wetland Rules, 2017 in furtherance whereof State of MP issued order dated 16.03.2022 defining prohibited, regulated and permitted activities in Bhoj Wetland and its Zone of Influence; only construction of temporary nature in the Zone of Influence at Bhoj Wetland is mentioned as a Regulated Activity and community based eco-tourism (with minimum construction activity) is mentioned as Permitted Activity; MPSWA has written letter dated 17.03.2022 to all stakeholders, departments, collector Bhopal and commissioner BMC to ensure compliance of order dated 16.03.2022; applicant's representation was received by MPSWA whereafter it sent a letter dated 20.09.2022 to Collector Bhopal, Commissioner BMC and MPTB seeking ground factual report from them and also making a request to comply Wetland Rules, 2017 and MP Government's order dated 16.03.2022; on the recommendation of MPSWA, MP Government, Department of Environment has constituted 'District Wetland conservation Committee' vide order dated 26.08.2022 under Chairmanship of District Collector of each district and lastly it is said that MPSWA is performing all its duties and functions strictly as per Wetland Rules, 2017.

Status report filed by RO MPPCB, Bhopal in reference to Tribunal's order dated 28.11.2022:

29. Status Report in respect of various water bodies and status of Cruise operation, has been filed giving details as under:

S.	Under	Name	Of	Place	Status	of	Remark
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No.	Regional Office	Water Bodies		Cruise Operation	
1	R.O. Indore	Water Body of Indira Sagar Dam (Including Narmada And Other Tributaries)	Khandwa	Cruise is in operation	Report as per enclosed Annexure-I
2		Water Body of Omkareshwar Dam (Narmada And Other Tributaries)	Mandhata, Khandwa	Cruise is in operation	
3		From Barwani Point To Sardar Sarovar Dam-Statue of Unity (River Narmada)	Barwani	No Cruise is in operation	
4		Water Body of Chaural Dam (Including Chaural And Other Tributaries)	Mhow, Indore	No Cruise is in operation	
5	R.O. Pithampur	Water Body of Mann Dam (Dhar)	Dhar	No Cruise is in operation	Report as per enclosed Annexure-II
6		Water Body of Jobat Fata am (Including Hathni River And Other Tributaries)	Alirajpur	No Cruise is in operation	
7	R.O. Mandideep	Water Body of Tawa Dam (Including Tawa, Denawa And Other Tributaries)	Hoshandabad	Cruise is in operation	Report as per enclosed Annexure-III
8		Water Body of Halali	Raisen	No Cruise is in	

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		Dam (Including Halali And Other Tributaries)		operation	
9		Water Body of Barna Dam (Including Barna And Other Tributaries)	Raisen	No Cruise is in operation	
10	R.O. Chhindwara	Water Body of Machagora, Chhindwara	Chhindwara	No Cruise is in operation	Report as per enclosed Annexure- IV
11		Water Body of Sapna Dam, Betul	Betul	No Cruise is in operation	
12	R.O. Gwalior	Water Body of Manikheda Dam (Including Sindh And Other Tributaries)	Shivpuri	No Cruise is in operation	Report as per enclosed Annexure- V
13		Water Body of Chandpatha Dam (District Shivpuri)	Shivpuri	No Cruise is in operation	
14		Water Body of Tigra Dam, Gwalior	Gwalior	Cruise is in operation	
15	R.O. Ujjain	Water Body of Gandhi Sagar Dam (Including Chambal And Other Tributaries)	Mandsour	No Cruise is in operation	Report as per enclosed Annexure- VI
16		Water Body of Dholabad Dam (Including Jamadh River And Other	Ratlam	No Cruise is in operation	

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		Tributaries)			
17	R.O. Rewa	Water Body of Govindgarh, Rewa	Rewa	No Cruise is in operation	Report as per enclosed Annexure-VII
18	R.O. Shehdol	Water Body of Ban Sagar Dam (Including Soun And Other Tributaries)	Shehdol	No Cruise is in operation	Report as per enclosed Annexure-VIII
19	R.O. Jabalpur		Jabalpur	Cruise is in operation	Report as per enclosed Annexure-IX

Water Quality Monitoring - The water quality monitoring of the water bodies where cruise are in operation are carried out by the concerned Regional Office of MPPCB and the report is submitted. The water quality analysis report of the water bodies are compared with IS 2296:1992 Indian Bureau Standard for primary water criteria, the water quality of the water bodies/ river/ lakes/ reservoir is found between "A and B" category."

30. With regard to water quality monitoring also, it is said that the same is monitored by concerned offices of MPPCB as per the prescribed standards with IS 2296:1992 Indian Bureau Standard for primary water criteria.

Reply dated 12.12.2022 filed by respondents 4, 5 and 6:

31. Separate reply has been filed by respondent 4, 5 and 6 i.e., Commissioner, Urban Administration and Development Department, MP, Commissioner BMC and Executive Director, BSCDCL respectively. It is said that definition of 'wetland' under Wetland Rules, 2017 does not include river channels, human-made water bodies/tanks constructed for drinking purposes, structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes etc.; applicant is mixing up issue of wetlands and other water bodies, illegally, by referring

to Wetland Rules, 2017 though Rules, 2017 are not applicable to other water bodies which are not wetlands; MP Tourism Policy formulated by Government has accorded highest priority for conservation and preservation of natural resources and beauty at eco-tourism destinations; has planned development of tourism facilities near major water bodies in a proper manner and one of the relevant part of the policy is Cruise Tourism; MP State Tourism Policy 2016 as amended in 2019 was formulated with a vision to promote balanced and sustainable tourism which further would enable socio-economic development, generate employment opportunities and establish Madhya Pradesh as a destination which provide a complete tourism experience; as per the Policy, State Tourism Promotion Council shall be established at State Level under the Chairmanship of Chief Minister; in various parts of State, cultural and tourism centric events are organized at local levels for which District Tourism Promotion Council (hereinafter referred to as **DTPC**) is constituted with strict adherence to Tourism Policy 2016 and detailed Guidelines and elaborated activities of District Level Tourism Council have been issued by the Department of Tourist of State of MP; the name of DTTC is now changed to District Archaeology Tourism Culture Council Bhopal (hereinafter referred to as **DATCC**); Department of Tourist has authority to undertake tourist activities in the water bodies under the jurisdiction of Narmada Valley Development authority, Water Resources Department and State Government; after proper investigation of carrying capacity of water bodies by Competent Authorities, DATCC invited applications for establishing project by issuing a 'Request for Proposal' (hereinafter referred to as **RFP**) for development and operation of Cruise restaurant at Lake in Bhopal; M/s. Swastika SPV Pvt. Ltd, was a successful bidder to establish and operate and accordingly license agreement was executed between DATCC and M/s Swastika SPV Pvt. Ltd. on 15.07.2021 to use piece of

land for project/ Cruise operation/boarding and hospitality services on khasra no. 98/1/2 admeasuring 4500 sq.ft. situated at Dharampuri, Van Vihar Road, Ward no. 24, Tehsil Huzur, District Bhopal for a period of 15 years which is extendable for a period of 5 years; DATCC vide letter dated 18.02.2022 directed Managing Director of M/s. Swastika SPV Pvt. Ltd. to obtain prior statutory permissions from all the concerned departments before operation of Cruise restaurant in Upper Lake Bhopal and only thereafter, the work should start; State Government's Department of Environment under the 'Regulated Activities' has allowed construction of temporary nature and in the 'Permitted Activities' has allowed Community based Eco-tourism with minimum construction activity; **construction of waiting lounge and jetty are covered within regulated and permitted activities** formulated by State Government; BMC vide letter dated 10.10.2022 granted construction permission of temporary nature in the shape of jetty and waiting lounge for operation of Cruise restaurant in favour of DATCC; there is no contamination of water of river and pollution of environment since waiting lounge and jetty for boarding the passengers in Cruise is an artificial temporary construction, designed in a manner where no pollution will be caused to lake and even there will be zero discharge of sewerage and solid waste from the Cruise ship; proper arrangements will be made for storage, sewerage and solid waste which can be removed at ashore; list of water bodies addressed by applicant are either dams used for irrigation purpose or source of drinking water, hence Wetland Rules, 2017 are not attracted in respect of such water bodies; applicant has failed to establish as to under which environmental provisions and regulations, launching of Cruise ships in different water bodies including holy River Narmada and Upper Lake Bhopal is unauthorized and illegal; and construction of waiting lounge and jetty in the vicinity of Upper Lake for boarding

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passengers in Cruise restaurant is permissible and Regulated Activity under Wetland Rules, 2017.

Reply dated 07.01.2023 filed by respondent 2:

32. It is said that MP State Tourist Development Corporation (hereinafter referred to as **MPTDC**) is the nodal agency under Department of Tourism, Government of Madhya Pradesh, with a mandate to develop tourism infrastructure in the State; respondent 2 has not launched any Cruise restaurant in Upper Lake or anywhere in State of Madhya Pradesh; Cruise boat at Bhopal is owned by MPTDC having permission and sanction from MP Lake Conservation Authority (hereinafter referred to as **MPLCA**) which works under the ambit of BMC; permission by MPLCA has been granted to install Cruise boat at Upper Lake Bhopal, an advisory/report dated 29.12.2005 was issued and prepared by Senior Research Officer, MPLCA, Bhopal providing details regarding installation of Cruise ship and conditions to be followed; Cruise boat installed at Upper Lake Bhopal runs on the advance technology of 'John Deere engine' which not only control emission and oil spillage from the Cruise but also substantially low down noise level; Cruise boat at Upper Lake Bhopal was launched 15 years back and engine on board is certified by European Pollution Agency having 99.9% combustion and negligible Carbon emission; only food is served at Cruise boat supplied from outside and the same has nothing to do with the preparation of food on the boat; MPSTDC has not started a Floating Restaurant having facilities for preparation of food within State of Madhya Pradesh; no garbage or bilge waste is discharged in the Lake; burnt oil waste and toilet discharge is taken ashore and disposed as per Rules and Regulations, and its record is maintained by MPSTDC; engine installed at Cruise boat Bhopal runs on an average of 11 liters per hour with average ride time of 45-50 minutes; during week days, Cruise usually takes 2 trips

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and during weekends, 4 trips approximately; MPSTDC is running Cruise ships in accordance with Rules and Sanctions etc. and there is no violation of environmental laws and norms.

Tribunal's order dated 10.01.2023:

33. The matter was examined by Tribunal on 10.01.2023 in the light of replies filed on behalf of respondents 1, 2 and 7 and reports of committees, as noted above.

34. Applicant prayed that CPCB is necessary party and permitted to be impleaded, hence, it was allowed to be impleaded as respondent 10.

35. Tribunal also directed MPPCB and CPCB to periodically monitor the activities of Cruise running in Bhoj Wetland and in case of any pollution being caused by the Cruise while in operation either under Water Act, 1974 and Air Act, 1981, to take necessary remedial action in addition to imposition of environmental compensation in accordance with rules. Respondent 2 was also directed to comply with environment rules and Government orders else it would be personally responsible.

Inspection Report pursuant to Tribunal's order dated 10.01.2023 filed by CPCB:

36. Report shows that Upper Lake of Bhopal was created by constructing an earthen dam on perennial River Kolans; lake accounts for more than 40% of City's water supply; water is drawn from 4 parts of the lake and treated in 5 water works units; south - eastern side of Lake is bounded by Shyamla Hills, Van Vihar and north - eastern side by Medical College, Koh-e-Fiza and Ahmedabad Hills; Bairagarh is located at the western side of the lake; main source of water in Upper Lake is surface runoff generated due to rainfall in its catchment area; Lake has been a tourist hotspot for the local residents; **Motorized, rowing and pedal boats**

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have been introduced by MPSTDC and Private Boat Owners in Lake at Boat Club with the permission of BMC; MPSTDC is operating 01 large 80 Seater Cruise Boat, 11 Paddle Boats, 09 Small Motor Boats, 01 Large 20 Seater Motor Boat, 01 Big 10 Seats Motor Boat and 01 Water Scooter at Boat Club for recreational activity; **about 45 hectares of lake area on the southern bank of the lake falls in 'Van Vihar National Park', a Wildlife Conservation Park notified under Wildlife (Protection) Act 1972;** the large 80 seater Cruise is being operated by MPSTDC with permission of BMC has 2 floors and is operated from 10:00 am to 7:00 pm; the Cruise is operated with the help of two John Deere make Diesel Engines of 125 HP capacity each on both sides of the Cruise; one Beta Marine make 12.3 KVA capacity DG is also installed for power back up purposes; Cruise is also equipped with 3 batteries on one side and 1 battery on the other side of the Cruise for power back up to the engines; 3 diesel storage tanks of 90 liters capacity each are provided for storage of diesel; food is supplied by Wind and Waves Restaurant of MPSTDC and served in the dining room of Cruise which is covered from all sides; no food is prepared on the Cruise and Check Post at the entry of Cruise has been put in place for restricting entry of external food with passengers; CPCB during inspection conducted ambient air monitoring on the deck of Cruise to assess the ambient air quality; noise monitoring on the deck during operation of Cruise with music as well as without music; water and sediment samples were collected from 06 different locations of the lake for analyzing prescribed general parameters, Heavy Metals, Total and Faecal Coliforms; 2 samples were also collected from Cooling Water vent pipes of DG and engines of Cruise; emission of gases was also observed during operation of both the diesel engines to detect the emission status; emission of gases was monitored using flu gas analyzer; samples of Benthic Macroinvertebrate were also collected to study health of water body using

Diversity Score and Saprobic Score; and to gather scientific data during inspection, independent opinion was taken from subject experts of Madhya Pradesh State Biodiversity Board (hereinafter referred to as 'MPSPB') and Department of Limnology of Barkatullah University, Bhopal.

37. With regard to water quality and ambient air quality, it is said that the monitored values are within the prescribed limits but ambient noise monitoring was found, with music and without music, exceeding the limits prescribed under Noise Pollution (Regulation and Control) Rules, 2000 (hereinafter referred to as 'Noise Pollution Rules, 2000'). With regard to biological monitoring of the Lake water, Report says that **Lake water body falls under Class C (Moderate Pollution)**; instance of Chironomidae directly indicates sewage contamination in the water body. Ultimately, the observations and recommendations have been given by CPCB as under:

"F. Observations:

1. *Retired Navy Commander Shri. Rajendra Nigam, Advisor for the Development of Water Sports and Adventure Tourism to the M.P. Tourism Corporation and Shri D. S. Mishra, Captain of cruise of M.P. Tourism Development Corporation, Bhopal were present during visit. Shri Nigam explained to the team about the cruise design, its functioning, safety precautions, maintenance schedule, operation timings etc. He informed that **Bhopal municipal corporation has given permission for operating the cruise in the Upper Lake to MP tourism on 31.12.2005. Copy of the permission is enclosed at Annexure-IX. It was told that the cruise has been certified under ISO 14001: 2015 but copy of the quality manual was not made available during visit.***
2. *The cruise having the capacity of 80 Passengers and operated from 10 am to 7 pm on normal days and on booking of parties the timings will be from 8 pm to 10 pm. In this regard the order passed by the Collector, Bhopal on 06.12.2019 is enclosed at Annexure-X. During the visit it was informed that the occupancy of the cruise is almost full in Sundays and holidays. Cruise is having two floors with sitting arrangement. Food is supplied by Wind & Waves Restaurant of MP Tourism Development Corporation and served in the dining room which is covered from all side. Menu card is attached as Annexure-XI.*

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During the party bookings banquet menu is served as per demand. No food is prepared on the Cruise but stored in the pantry area. Check post at the entry of cruise is setup for restricting entry of external food with passengers.

3. *Cruise is installed with two diesel engines (make: John Deere) of 125 HP capacity each on both side of the cruise. The operator claiming that the engines are designed for marine purpose with leakage and spillage proof technolgr **but during the visit some spillage of oil was observed near the engines and DG at bottom of cruise.** The copy of cruise general arrangement plan drawing is enclosed at Annexure-XII. **As per the operator, the engines are designed for zero emissions but during visit visual emissions were observed from the exhaust pipes.** The team has monitored the source emissions by using Flue Gas Analyser.*
4. *During the visit verified all the probable water, air, noise, oil, solid waste pollution sources, collected the wastewater samples from the discharge of cruise, monitored the ambient air quality on the cruise, ambient noise levels and source emissions from the engines/DG exhaust. Also carried out the biomonitoring, collected 06 water samples from different locations and 06 sediment samples from the lake. As the petition mostly raising the issues about the pollution of water bodies due to operation of Cruise by the M.P. State Tourism Development Corporation, therefore, thrust was given on inspection of the source i.e. cruise.*
5. *Three diesel storage tanks of 90 liters capacity each have been provided for storage of diesel inside the cruise near the Engines and DG. It was informed that the average diesel consumption of the cruise is approximately 7 liters/hour (28 liters/day). The daily consumption is depending upon the number of rounds. **The cruise path is fixed and the water depth along the cruise path is approximately 8-10 feet at cruise parking area and 15-20 feet at midway of the path. 02 propellers and 02 radars of cruise submerges about 3 feet inside water.** As informed, each round takes approx. 45 minutes to 1 hour. Copy of the diesel consumption log book for the month of January and February 2023 is enclosed at Annexure-XIII.*
6. *One Diesel Generator is also installed (make: Beta Marine) of 12.3 KVA capacity for power back up. During visit it was observed that **there is no platform provided for collecting back the spillage of oil if any during filling of diesel in engines & Diesel Generator and found that there is a possibility of spillage of diesel while pouring.** It was also observed that **there is no proper vent provided at appropriate height for the exhaust gases generating from the DG and engines.***
7. *The operator is generating waste oil/ used oil from cruise engines & DG and not taken authorization under Hazardous Waste (M, H & TM) Rules 2016 from MP Pollution Control Board. The records of the waste*

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oil/used oil are also not being maintained and disposing illegally instead of sending to authorized recyclers. Due to non-availability of record the waste oil/used oil generation quantity could not be assessed.

8. *About 200 liters capacity sintex tank provided for storage of fresh water for using in wash basins and toilets. One washroom has been provided with urinal inside the cruise premises. The lavatory waste collected in a collection tank of 100 litres capacity and sent to Nagar Nigam for treatment and disposal for that MPSTDC is paying Rs.1,000/- per month. Copy of receipt is enclosed at Annexure-XIV.*
9. *For solid waste collection 03 nos. of dustbins were found on the cruise but **not collecting dry and wet waste separately.** The Instructions and sign boards were found placed on the cruise for proper management of waste **but not implemented properly.***
10. *During visit it was observed that **huge quantity of waste water directly mixing in lake from Bairagarh, Khanugaon, VIP Road areas etc.** Nagar Nigam Bhopal has installed 05 water fountains/aerators in the lake to maintain the DO in the lake but during the visit none of them were found operational. A wired mesh with long handle is also available at the cruise for collection of debris if found floating on the water.*
11. *The operator is using two numbers of sound boxes 450 watt of capacity in the cruise for entertainment of the tourists. During visit the CPCB team has carried out the noise monitoring and it was found that **noise levels are above limit.***
12. *The operator has not taken consents under Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of Pollution) Act, 1981 and authorization under hazardous waste Rules, 2016 from MPPCB.*
13. *MP Wetland Authority has issued a letter to the M.P. Tourism Corporation and Municipal Corporation, Bhopal for complying the norms on 20.09.2022.*
14. *Request letter written to M.P. Pollution Control Board for providing the status of cruises operation and monitoring of water bodies in Madhya Pradesh and the information is awaited and shall be filed before the Hon'ble Tribunal as soon as the same is received. Copy of the letter dated 03.03.2023 is enclosed at Annexure-XV.*

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G. Recommendations:

1. **As the Operator is discharging the engine cooling water, wash basin wastewater into the Lake, using Music System and is generating Toilet Waste in the Cruise for**

which consent/ Environmental Management Plan may be approved from the M.P.P.C.B. and the District Administration may develop a monitoring mechanism to ensure compliance of Environmental Norms for running and operating the Cruise in the surface water bodies.

2. **As the Operator is generating waste oil/used oil from the engines/DG, it is mandatory to take authorization under Hazardous Waste Rules, 2016 from the M.P.P.C.B.**
3. *To Operator must provide proper vent pipe at appropriate height as for the exhaust gases emanating from the DG and engines being used for operation of the Cruise.*
4. *To prevent mixing of Diesel in the Lake Water, the Operator should make necessary arrangements for collecting back the spillage if any during filling of Diesel in Cruise Engines and DG.*
5. *The Operator should provide separate Dry and Wet Waste Collection Bins and dispose the waste as per the Solid Waste Management Rules, 2016.*
6. **The Operator should not use high decibel sound boxes in the Cruise because the Van Vihar National Park is situated quite near the path of the Cruise and it falls under Silence Zone.**
7. *To prevent Water Pollution in Upper Lake, Municipal Corporation Bhopal should stop the discharging of the waste water into the Lake.*
8. **The Wash Basin wastewater should not be discharged directly in to the lake. It is also recommended to provide Bio - Toilets with suction system for collection of lavatory waste instead of manual collection of the same.**
9. *The capacity of water storage tank of 200 L. and the capacity of grey water collection & storage tank is of 100 L. Therefore, it is recommended to install grey water storage tank of 200 L.*
10. *The Operator should explore the possibility to use gas/solar/bio-fuel based engines etc. for operation of the Cruise instead of Diesel Engines."*

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Reply filed by CPCB dated 11.02.2023:

38. It is said that it has prepared "Mechanism/ Guidelines for Control of Pollution and Enforcement of Environment Norms at Individual Establishment and the Area/ Cluster of Restaurants/ Hotels/ Motels/ Banquets etc." September 2020 which has been shared with all State Pollution Control Boards and State Pollution Control Committees and all

restaurants should follow the conditions in addition to the provisions made under Water Act, 1974. CPCB has made inspection and submitted report which may be considered as part of reply.

39. With regard to water quality data of Upper Lake Bhopal, the figures of year 2021-2022 has been given as annexures-R-10-11 as under:

"WATER QUALITY DATA OF UPPER LAKE, BHOPAL IN THE STATE OF MADHYA PRADESH UNDER NWMP DURING 2021-2022

Station Code	Name Of Monitoring Location	Year	Dissolved Oxygen (mg/L)		pH		BOD (mg/L)		Total Coliform (MPN/100ml)	
			Min	Max	Min	Max	Min	Max	Min	Max
Designated Best use for Water Quality Criteria Class of - C (Drinking water source after conventional treatment and disinfection)			>4 mg/L		6-9		<3 mg/L		<5000 MPN/100 ML	
1373	UPPER LAKE AT WATER SUPPLY INTAKE WELL NEAR KAMLA PARK, BHOPAL (M.P.)	2021	5	8	7.18	7.73	1.1	4.2	150	43000
		2022	4	7	7.1	8.14	BDL	2.8	3.7	27
2137	UPPER LAKE NEAR WATER SUPPLY INTAKE WILL YATCH CLUB BHOPAL(M.P.)	2021	4	8	7.32	8.21	1.1	3.6	140	54000
		2022	5	8	7.05	8.06	BDL	2.8	3.6	33
2138	UPPER LAKE NEAR WATER SUPPLY INTAKE WELL NEAR KARBALA BHOPAL(M.P.)	2021	5	8	7.29	8.08	1.2	4	110	92000
		2022	5	9	7.14	8.25	BDL	2.8	3.6	26
2139	UPPER I-AKE NEAR WATER SUPPLY INTAKE WELL BAIRAGARH, BHOPAL(M.P.)	2021	4	8	7.44	8.08	BDL	1.7	240	92000
		2022	4	7	7.03	8.34	BDL	2.5	3.7	33
Note: <ul style="list-style-type: none"> • BDL value for Dissolved Oxygen 0.3 mg/L • BDL value for BOD 7 mg/L 										

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40. Respondents 1, 3 and 7 have filed a copy of **Writ Petition No. 11874 of 2022, Dr. Subhash C. Pandey vs. State of Madhya Pradesh**

& Others along with its memo of filing documents dated 13.03.2023 (at page 436 of paper book) stating that applicant has challenged Government of Madhya Pradesh's Administrative Order dated 16.03.2022 before High Court being contrary to Wetland Rules, 2017 and Guidelines of 2020. However, it is not disputed that as on date notification dated 16.03.2022 is operating and therefore we shall proceed by applying the above notification.

Reply dated 31.03.2023 filed by MPSPB:

41. It is said that in recognition of its international commitments, i.e., Convention on biological Biodiversity signed at the Rio Earth Summit 1992, Parliament enacted **BD Act, 2002** which received assent of President of India on 05.02.2003; MPSPB was constituted as per the provisions of BD Act, 2002 and Biological Diversity Rules, 2004 (hereinafter referred to as **BD Rules 2004**), notified by State Government under Section 63(1) of BD Act, 2002 on 17.12.2004; the basic objective and purpose of BD Act, 2002 is to ensure conservation of biological diversity, sustainable use of its components and fair and equitable share of benefits arising out of utilisation of genetic resources and wherever consider necessary to provide for conservation, sustainable utilisation and equitable sharing of benefits arising out of utilisation of genetic resources and also to give effect to the United Nation's convention of biological diversity, signed at Rio-de-Janeiro; the matter relating to permission for construction in the catchment area of Upper Lake Bhopal is not within the authority and ambit of BD Act, 2002; in **M.C. Mehta vs. Kamal Nath & Ors., (1997) 1 SCC 388**, Court enunciated doctrine of "public trust", the thrust of that theory is that certain common properties such as rivers, seashores, forests and air are held by Government in trusteeship for free and unimpeded use of general public; resources like air, sea, waters and

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forests have such a great importance to the people as a whole that it would be totally unjustified to make them a subject of private ownership; State, as a custodian of natural resources, has a duty to maintain them not merely for the benefit of public, but for the best interest of flora and fauna, wildlife and so on; doctrine of public trust has to be addressed in that perspective; in ***Pertyakaruppan vs. Revenue Department, 2022 SCC OnLine Mad 2077***, Madras High Court has invoked “parens patriae jurisdiction” and declared “Mother Nature” as a “Living Being” having legal entity/legal person/juristic person/ juridical person/moral person/artificial person having the status of a legal person with all corresponding rights, duties and liabilities of a living person in order to preserve and conserve them; Court said that State Government and Central Government have to protect “Mother Nature” and take appropriate steps to protect Mother Nature in all possible ways; Respondent 9 further says that steps should be taken to mitigate adverse effects on Upper Lake particularly, carbon emission and dangerous particulates emitted by Cruise ships which may be hazardous to environment in many ways and is suspected of having a detrimental effect on the bio-diversity of the region. With reference to Rule 14(xviii) of MP State Bio-Diversity Rules, 2004, respondent 9 has given certain observations and recommendations as under:

- “1. *As per a study on aquatic biodiversity conducted through Department of Environmental Sciences and Limnology Barkatullah University, Bhopal, the upper lake which falls under Betwa River basin recorded 37 fish species and 63 species of phytoplankton and 56 species of Zooplankton and 37 species of Benthic organisms.*
2. *As per a study of avifauna of Bhoj Wetland conducted by Environment Conservation Society the Bhoj Wetland is a habitat almost 164 avifaunal species.*
3. *As per a study of Macrophytes of Bhoj Wetland conducted by Dr. Ashok Biswal the Bhoj Wetland supports 223 Macrophyte species.*

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4. As per the Butterfly Survey of Bhoj Wetland conducted by Bhopal Birds Conservation Society in 2022, a total of 18954 butterflies belonging to 80 species have been recorded."

Applicant's objections dated 23.04.2023 to the inspection report filed by CPCB:

42. Applicant has filed objections stating that the report shows that as many as 24 motor boats are sailing/plying in the precious water body besides 150 private operator's motor boats plying in the said Lake; MPSTDC has completed its preparation for launching a new 200 seater Cruise ship in Upper Lake without estimating loading capacity of the water body, without assessing its impact on biodiversity and water quality; CPCB has found direct discharge of sewage in the Upper Lake through 10 sewage drains causing contamination of lake's water; Environment Planning Coordination Organisation (hereinafter referred to as 'EPCO') has given its opinion that biodiversity of Upper Lake is continuously deteriorating and has come down from 800 to 182 in last 20 years which is really a serious cause of concern; water quality of Upper Lake reached down from "B" to "C" category and if the same trend persists, would further downgrade to "D" category; though CPCB has said that Cruise is certified under ISO 1400 01: 2015 but copy of the quality manual was not made available to them and the findings has been recorded on mere information from Operator; though Operator claims that engines are designed for marine purpose with leakage and spillage proof technology but during visit, some spillage of oil was observed near engines and DG at bottom of the Cruise; Operator claims that engines are designed for zero emission but during visit, visual emissions were observed; various other observations of CPCB report show that there is clear violation of Hazardous and Other Wastes (Management And Transboundary Movement) Rules, 2016 (hereinafter referred to as 'HOWMTM Rules, 2016') and no authorization has been

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obtained thereunder; inspection team found huge quantity of waste water directly mixing in Lake from Bairagarh, Khanu Gaon, VIP Road, etc. and this is a direct violation of Water Act, 1974 and Wetland Rules, 2017 by BMC; Bhopal Nagar Nigam has installed 5 water fountains/aerators in the Lake to maintain Dissolved Oxygen of water body but at the time of inspection, none of them were found operational and Cruise was found violating Noise Pollution Rules, 2000 and noise pollution was beyond prescribed limit and it is bound to affect the wildlife in Van Vihar National Park which is close to the path of Cruise and hence there is violation of the provisions of Wild Life (Protection) Act, 1972 (hereinafter referred to as 'WLP Act, 1972').

43. Besides, observations made in the inspection report, applicant has drawn attention to some other aspects in para 21 as under:

"21) In addition to above, some other significant points are also to be noted against the sailing/plying of Cruise ships/ boats in potable water bodies like Upper Lake, Bhopal:

i) Bhopal Master Plan, 2005 in its clause 2.55, page 29 prohibits entertainment and commercial activities in the Upper Lake. It states that 'बड़े तालाब के पानी में आमोद-प्रमोद गतिविधियों को अनुमति नहीं देना चाहिए, क्योंकि यह जल मूल रूप से पीने के उपयोग में आता है। जबकि आमोद-प्रमोद की गतिविधियां पानी के गुण पर विपरीत प्रभाव डालेंगी।' (Annexure A-2).

ii) Prohibition under the Water Act, 1974 is very clear against motorized boating and sailing of Cruise ships etc. in water bodies and polluting the water quality. Sec. 24(1) (a) and (b) of the Act state that '(1) Subject to the provisions of this section, - (a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or (b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.'

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Similarly, Sec. 25(1)(a) (b) and (c) of the same Act state that '1 [(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,— (a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or (b) bring into use any new or altered outlets for the discharge of sewage; or (c) begin to make any new discharge of sewage' (Annexure A-3).

iii) Upper Lake Bhopal is a well-known Wetland of International repute called as Ramsar site / Bhoj Wetland. Hence, Respondents / Operators have to abide by the provisions of Wetland Rules, 2017 and Guidelines, 2020 specifically given for the protection and conservation of Wetlands. Section 7 of Guidelines for implementing wetlands conservation and Management Rules, 2017 very clearly prohibits the discharge of treated sewage, effluent, waste water in the Wetlands. Similarly, **Section 8 of the Guidelines permits plying of non-motorized boats only in the water body.** It clearly means sailing/plying of all types of motorized boat / Cruise ships are prohibited in the wetlands (Annexure A-4).

iv) Order dated 16th March 2022 passed by the Government of Madhya Pradesh, Environment Department is very clear when it prohibits certain activities in Bhoj Wetland. Clause/ Point 4 (A)(v) directs that 'Discharge of untreated waste and effluents from Industries, cities, towns, villages and other human settlements' will be prohibited. Therefore all activities being done by the Operator of Cruise ships / boats are strictly prohibited.

Similarly, **Clause/Point 4 (B) (iii) of the said Order clearly directs that 'plying of non- motorized boats' will be the regulated activities. This clearly means sailing and plying of all types of motorized boats/ Cruise ships will not be allowed in the Bhoj Wetland (Annexure A-5).**

v) **Government of Madhya Pradesh, Gazette Notification dated 28 February, 2017 provides a list of Authorised water bodies for sailing of ships, which does not include Bhoj wetland/Upper Lake (Annexure A-6)."**

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ARGUMENTS:

44. Learned Counsel for applicant contended that motorized Cruises are prohibited under order dated 16.03.2022 issued by Government of Madhya Pradesh which provides that only 'Non-motorised Boats' under the category of 'Regulated Activities' can be allowed to be operated in lakes

and water bodies, meaning thereby, those category of Cruises and Motors Boats which are not provided, stand prohibited and, therefore, running of motorized Cruise in Bhopal Lake/Bhopal Wetland and other water bodies is illegal. It is further contended that in motorized Cruises or Boats, motors are run by Organic Fuel like diesel and petrol which are hazardous material, causes air and water pollution and, therefore, without having Statutory permission/NOC/Consent under Water Act, 1974, Air Act, 1981 and HOWMTM Rules, 2016, operation of cruise and motorized boats is clearly illegal and, therefore, the persons responsible are also liable for preventive and punitive action like criminal prosecution and assessment of environmental compensation besides stopping of these activities forthwith. It is also urged that raising of permanent construction in the name of Jetty and Cruise Restaurant/Waiting Space etc., within Zone of Influence is also illegal and the same is liable to be demolished.

45. On the contrary, Learned Counsel appearing for State of Madhya Pradesh i.e., respondents 1, 2 and 3 and also Learned Counsel appearing for BMC i.e., respondent 5 contended that water Cruise is not something which requires Consent under Water Act, 1974 or Air Act, 1981 and the same are inapplicable. It is further contended that most of the water bodies referred by applicant are running rivers or dams and not wetlands, therefore, restrictions imposed under Wetland Rules, 2017 are not applicable. However, with respect to 'Bhopal Lake' which is Ramsar Wetland Site, it is contended that no pollution has been found in the said Lake; Cruise is being operated with a protection guaranteed engine i.e., 'John Deere', therefore, the allegations of pollution of water lake has no basis; Cruise operation is for augmenting and encouraging State Tourism under Tourist Policy of State Government and for general benefit of the public; permission and sanction from MPLCA which works under the


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ambit of BMC has been obtained; the engines installed on the Cruise Boat have 99.9% combustion and negligible Carbon emission, therefore, causing no pollution at all; very small quantity of organic fuel is used in operation of Cruise Boat and a Senior Research Officer, MPLCA issued an advisory/report dated 29.12.2005 (annexure R-2/1 to the reply of respondent 2 at page 293 of paper book) and operation of Cruise is consistent with the said advice hence no pollution is being caused; there is no violation of any Statutory Provisions and there is no illegality in running Cruise Boats/Motor Boats in the Bhoj Wetland and other water bodies; raising of temporary construction and jetties necessary for riding or boarding down the boat is not prohibited under any provision or law and, therefore, the complaint in this regard has no substance.

ISSUES:

46. We have heard Learned Counsels for the parties, perused records, relevant Statutory Provisions and judicial precedents applicable to the issues raised before us. We find that following issues have arisen for adjudication by this Tribunal:

- I. Whether the provisions of Water Act, 1974, Air Act, 1981 and other environmental laws and norms including the provisions made under EP Act, 1986 are applicable to the Cruise Boat and Motor Boat operations in Bhoj Wetland, other water bodies and rivers etc.?
- II. Whether running of Cruise Boats by respondents is permissible in law and/or whether the Statutory compliances are being observed in such operations?
- III. Whether construction raised are in the nature of 'prohibited activities' and if so, what action is needed to be taken?
- IV. Whether order dated 16.03.2022 issued by State of Madhya Pradesh

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under the provisions of EP Act, 1986 read with Wetland Rules, 2017 permits running of motorized Cruises?

CONSIDERATION ON MERITS

47. All the issues, we find are inter-connected, hence we propose to consider the same simultaneously.

48. While considering the issue raised before us in the matter, we have to keep in mind that we are dealing with the water bodies and rivers in State of Madhya Pradesh which is full of water resources, forest assets and wildlife. The State is part of Central Province in Central India. It is the largest Indian State by area and fifth largest State by population; it borders State of Uttar Pradesh to North-East, Chhattisgarh to East, Maharashtra to South, Gujarat to West and Rajasthan to North-West and total area of State of Madhya Pradesh is 308,252 km² (119,017 sq mile); length and width wise, its dimension is 605 KM in length and 870 Km in width. Its historical importance went back to ancient emporium; the area covered by present day State of Madhya Pradesh includes the area of ancient Avanti Mahajanapada, whose capital, well known to the people, was Ujjain (also known as 'Avantika'); it was a major city during Indian urbanisation in Sixth century BCE; subsequently, region was ruled by major dynasties of India; in nineteenth century, majority of area of Madhya Pradesh was dominated by Maratha Empire; after Anglo-Maratha War in 19th century, the region was divided into several Princely States under British regime and incorporated into Central Provinces and Berar and Central Indian Agency. After independence, Central Provinces and Berar was renamed as 'Madhya Bharat' with Nagpur as its capital; this State included Southern parts of present-day Madhya Pradesh and North-Eastern portion of present-day Maharashtra; in 1956, there was

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reorganization of States and certain parts of Maharashtra were combined with States of Madhya Bharat, Vindhya Pradesh and Bhopal to form new State of Madhya Pradesh; Marathi speaking Vidarbha region was removed and merged with Bombay State.

49. State of Madhya Pradesh was the largest State in India by area until 2000, when South-Eastern part of this State was separated with the creation of Chhattisgarh State region, designated a separate State.

50. State of Madhya Pradesh has distinction of rich mineral resources, forest reserve and water resources. It has distinction of having a large river running from East to West i.e., Narmada which runs between Vindhya and Satpura ranges. Narmada is the longest river in State of Madhya Pradesh, flows through a rift valley. It has several tributaries including Banjar, Tawa, Machna, Shakkar, Denwa and Sonbhadra. Other major rivers of Madhya Pradesh are Rivers Son, Shipra, Tapti, Mahanadi, Chambal etc. Godawari Basin also finds small part of State of Madhya Pradesh.

51. State of Madhya Pradesh is also known for lakes and other water bodies. It has 4 Ramsar Wetland Sites under Ramsar Convention i.e., Bhoj Wetland (Bhopal Lake or Bhoj Taal or Upper Lake or Lower Lake; Sirpur Lake, Yashwant Sagar and Sankhya Sagar).

52. Bhoj Wetland i.e., Bhopal Lake got the status of Wetland of International importance under Ramsar Convention on 19.08.2002 comprising 2 water bodies i.e., Upper Lake and Lower Lake. Its total area is about 31 km². It is located at Bhopal. With regard to Bhoj Taal (**Upper Lake**), as per old records, the Lake was made by Paramara Raja Bhoj, Ruler of Malwa. The Lake is surrounded by Van Vihar National Park on the South, agricultural fields on the West and human settlement on the East and North. By making an Earthen dam across Kolans River (tributary

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of Halali river), the lake was built. Upper Lake drains into Kaliasot River. Another dam called Bhadbhada was constructed in 1965 on Upper Lake to control outflow of Kaliasot river. Catchment area of Lake is about 361 km² and it has maximum length and width of 31.5 km and 5 km respectively.

53. **Lower Lake** which is also part of Bhoj Wetland, is said to have been built by Nawab Chhote Khan in 1794 to beautify the city; it drains into Halali River via lower reach of Kolans River; has a catchment area of about 9.6 km² and surface area of 1.29 km²; average depth of Lake is 6.2 meters and maximum depth is about 10.7 meter; a 'Pul Pukhta' or Lower Lake Bridge separates Lower Lake from Upper Lake.

54. **Sirpur Lake** has a total area of about 800 acres (around 3.6 km²), got the status of wetland of international importance under Ramsar Convention on 07.01.2022. It was built by Holkars of Indore State in early 20th century and is one of the 19 important bird areas of Madhya Pradesh recognized by Bird Life International in 2015. Sirpur Lake is located at Indore.

55. **Yashwant Sagar (Lake)** also located in District Indore, got the status of Wetland of International importance on 07.01.2022 under Ramsar Convention; it is a dam reservoir on Gambhir River and supplies water to Indore City; area of reservoir is about 2650 hectares; created in 1939 and also known as 'Gulawat Lotus Lake Valley'; it is one of the 19 important bird areas of Madhya Pradesh recognized by Bird Life International on 2015.

56. **Sankhya Sagar (Lake)** got the status of international importance under Ramsar Convention on 26.07.2022 located at Shivpuri inside Madhav National Park; it was created in 1918 from Manier River.

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57. Besides above, there are other famous Lakes of Madhya Pradesh i.e., **Shahpura Lake** located at Bhopal, **Rangun Lake** in District Chhatarpur, **Beni Sagar Lake** near Khajuraho and **Lakha Banjara Lake** at District Sagar. There are some lakes which are either called Lakes or Reservoirs, which are also in the list of Lakes of State of Madhya Pradesh and the same are as under:

Sl. No.	Name of the Lake	City/Location
1	Sangram Sagar Lake	Jabalpur
2	Jalpari Lake	Jabalpur
3	Tawa Reservoir	Hoshangabad
4	Halali Reservoir	Vidisha (it also span over Bhopal and Raisen)
5	Rani Lake	Rewa
6	Teliya Lake	Mandsaur
7	Morwan Reservoir	Neemuch
8	Nagchoon Lake	Khandwa
9	Munshi Hussain Khan Talab	Bhopal
10	Lendiya Lake	Bhopal
11	Motia Lake	Bhopal
12	Nawab Siddique Hasan Talab	Bhopal
13	Munj Sagar Lake	Dhar
14	Dharam Sagar Lake	Panna

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58. In fact, State of Madhya Pradesh is heavily loaded with forest area, water bodies and precious wildlife. Its geographical area is characterized by plateaus, mountain ranges, rivers, valleys and dense forest. The terrain

assists rivers and seasonal streams to form various beautiful and breath-taking waterfalls.

59. State of Madhya Pradesh is also known for several beautiful and important waterfalls like Dhuadhar, Kapildhara, Dugdha-Dhara, Shahastra Dhara, Mandhar, Dardi, Satdhar, Chachai, Purwa, Bahuti, Keoti, Belauhi, Piyavan, Patalpani, Chuliya, Jhadi-daha, Tinchha, Jogi-Bhadak, Gidiya-Khoh, Rajat, Bee, Dutchess, Apsara, Irene, Sankua, Sultangarh, Bhoora Khon, Pawa, etc. There are some seasonal waterfalls also like Raneh, Pandav, Bhalkund, Gatha, Dhanora, Kukdi, Shambhudhara, Taxakeshwar, Sitalmata, Gangulpara, Dagona, Kakrakhoh, Maldhar, Anhoni, Shankar Kho and Dhara-Khoh etc. The waterfalls are on various rivers like Narmada, Sindh, Tons, Chambal and their tributaries. Some waterfalls, we find in Panchmarhi Region, which is a hill station situated on Satpura Mountain Rangers and a source of various seasonal streams creating beautiful waterfalls.

60. In other words, it will not be exaggerated to say that State of Madhya Pradesh is full of natural resources, and water resources in various forms are in plenty. Perhaps that is the reason of having a huge forest area in the State.

61. Protection of natural resources is prime responsibility of State. In ***M.C. Mehta vs. Kamal Nath & Others (1998) 1 SCC 388***, Supreme Court said that State is Trustee of all natural resources which, by nature, are meant for public use and enjoyment. Public at large is beneficiary of the sea-shore, running waters, airs, forests and ecologically fragile lands. State as a trustee, is under a legal duty to protect natural resources. These resources meant for public use cannot be converted into private ownership. Executive, acting under Doctrine of Public Trust, cannot

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abdicate natural resources and convert them into private ownership or for commercial use.

62. Water bodies in State of Madhya Pradesh are for the benefit of the people of Madhya Pradesh in general and State of Madhya Pradesh is under the obligation to protect and maintain them so that the same are not polluted, damaged and no harm is caused to aquatic flora and fauna of these resources.

63. Mere terminology by using the words 'Dam' and 'Reservoir', etc. will not change the nature of aqua-resource which is obviously available due to natural activities and if for use of the water resources in one or the other form, some developmental activities like construction of dam or reservoir etc. has been undertaken, the same would not change the very basic nature and concept of natural water resources available to the State. The mere fact that some lakes have their origin to the efforts of man called man-made Lakes will not change the concept of the Lake and water bodies in as much as even Ramsar Sites in State of M.P. include Lakes which are man-made.

64. We have to look into the wider and broad perspective of water body as such and the regulation relating to wetland has to be construed accordingly. Before us, there is large man-made Lake i.e., Bhopal Lake which is admittedly a Wetland of International importance having being declared as 'Ramsar Site'. Similarly, there are other water bodies whether called 'Reservoir' or 'Lake' but the basic attitude of both is same.

65. For the purpose of construing what constitute wetland, we need not to go elsewhere but straight away fall upon the definition of 'Wetland' in Rule 2(g) of Wetland Rules, 2017 which reads as under:

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“2(g) “wetland” means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes;”

66. A perusal of definition of wetland shows that area of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary is included within the definition of Wetland. Whether water is static or flowing, fresh, brackish or salt, all are included within the term 'Wetland'. The river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes are excluded. A river channel is not synonymous to river. A river is a natural watercourse while a channel can be part of the structure of a river. In geography, a river channel refers to the path or course through which a river flows. Further, here human-made water bodies/tanks specifically constructed for drinking water purpose does not include the dams or Reservoirs which are not only for drinking water purposes but have multifarious purposes. Here the term 'water bodies' has to read with the term 'tanks'. It is for this reason that most Ramsar Sites in State of Madhya Pradesh are man-made still they are Ramsar Sites Wetlands.

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67. Nature of water bodies which are referred to in OA are not river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes. They are clearly covered by the definition of the term 'Wetland,'

constitute wetland and attract provisions of Wetland Rules, 2017.

68. Besides the provisions of Water Act, 1974, we find that the definition of 'Stream' in Section 2(j) is very wide. It is not exhaustive but inclusive meaning thereby, what is mentioned therein would come within the *definition of Stream but what is not mentioned therein but have the characteristics or indicia of the items mentioned in the definition, the same would also be in the ambit of the term 'Stream'*. This is evident from definition of 'Stream' which reads as under:

"2.(j) ***stream***" includes-

- (i) *river;*
- (ii) *water course (whether flowing or for the time being dry);*
- (iii) ***inland water (whether natural or artificial);***
- (iv) *sub-terranean waters;*
- (v) *sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf;"*

69. Prohibition and restraint under Section 24 of Water Act, 1974 is applicable to every 'Stream' which is defined in Section 2(j) or well. Meaning thereby, stagnated ground water is also covered by mis-chief, sought to be prohibited by Section 24 of Water Act, 1974.

70. In fact, definition of Stream under Section 2(j) is very wide which includes 'inland water' whether natural or artificial. General definition of inland water is permanent water bodies inland from the coastal zone and areas whose properties and use are dominated by permanent, seasonal, or intermittent occurrence of flooded conditions. Inland water includes rivers, lakes, flood plains, reservoirs, wetlands and inland saline systems. Inland waters are aquatic-influenced environments located within land boundaries. Inland water system can be fresh, saline or mix of two (brackish water).

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71. In other words, any of the waters as lakes, canals, rivers, water courses, inlands and bays within the territory of a State as contrasted with the open seas or marginal waters, bordering another State subject to various sovereign rights of the bordering State is within the term 'Inland Water'.

72. The purpose of Water Act, 1974 and Wetland Rules, 2017, in general, is to protect water resources from being polluted in any manner whatsoever. Subject to the provisions of the said Statutes, developmental and other activities can be undertaken but the water resources indiscreetly cannot be tempered with, adversely affected and damaged by any kind of activities which would include running of Motor propelled Vessels/Boats wherein organic fuel is used which is a hazardous substance governed by the provisions of HOWMTM Rules, 2016. The extent and ambit of environmental laws, unless has inbuilt restriction or shows an express exclusion, should be given beneficial wider interpretation since it is for the benefit of the mankind and nature.

73. The purpose of environmental laws is to protect nature so that people may enjoy their Fundamental Right of clean air and water and untampered environment. The Statute is beneficial and, therefore, has to be given a widest permissible interpretation.

74. In this backdrop, we propose to consider various issues raised before us.

75. It is argued that the Cruise Boat or Cruise Vessel or Cruise Ship smaller in size than those which are marine operated is an activity not regulated or governed by the provisions of Water Act, 1974, Air Act, 1981, EP Act, 1986 and the Rules framed thereunder.

76. We find it appropriate to consider merit of this submission. The term 'Cruise' has no scientific or technical meaning or effect. Its Dictionary meaning is to sail about in an area without a destination specially for pleasure. The bigger Cruise and Boats which operates in marine water are called Cruise Ships or Cruise Liner. However, there are larger Boats which are Motor propelled, can accommodate a large number of passengers, provide them a package of dining, enjoyment, entertainment etc., running in inland waters which are also called 'Cruise Motor vehicles' or 'Cruise water Crafts' or 'Cruise Boats' or 'Vessels'.

77. Such type of inland water Cruises have a long history in as much as in 1917 it was found appropriate to regulate operation of such vessels in the inland waters by enacting Inland Vessels Act, 1917 (hereinafter referred to as **IV Act, 1917**). Definition of 'Inland Vessels', 'Inland Water' as also 'Inland Mechanically Propelled Vessel' are given in Section 2(a), (b) and (c) and as initially enacted, read as under:

"(a) "inland vessel" or "inland mechanically propelled vessel" means a mechanically propelled vessel, which ordinarily plies on inland water,

(b) "inland water" means— any canal, river, lake or other navigable water

(c) "mechanically propelled vessel" means every description of vessel propelled wholly or in part by electricity, steam or other mechanical power;."

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78. The term '**Voyage**' was also defined in Section 2(h) as under:

"2(h) "voyage" includes the plying of a [mechanically propelled vessel] at or about any place,"

79. Section 3 imposed restriction on operation of an inland mechanically propelled vessel unless certificate of survey was issued to it. The certificate of survey was granted by State Government under Section 8 after following

the procedure laid down in Section 6, 7 and 8 of the said Act.

80. In 2007, Chapter VIIAB was inserted in the above Act which dealt with prevention and control of pollution and protection on inland water. Section 54E prohibited discharge of oil or oily mixture or hazardous chemical or obnoxious substance in inland water from a mechanically propelled vessel. The terms 'hazardous chemical' or 'obnoxious substance', 'oil' and 'oily mixture' were defined in Section 54D. We may reproduce Section 54D and 54E as under:

"54D. Definitions. —*In this Chapter, unless the context otherwise requires, —*

(a) **"hazardous chemical" or "obnoxious substance"** means any chemical or substance, as the case may be, which has been designated as such by rules made under this Chapter;

(b) **"oil"** means any persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, whether carried on board a tanker as cargo or fuel;

(c) **"oily mixture"** means a mixture with any oil content.

54E. Prohibition as to discharge of oil, oil mixture, etc., in the inland water. —*No oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel shall be discharged in inland water:*

Provided that nothing in this section shall apply to the discharge of such oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel for the purpose of securing the safety of a mechanically propelled vessel, preventing damage to a mechanically propelled vessel, cargo or saving of life at inland water.]"

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81. Section 54H for conferred power upon Central Government to make Rules for prevention and control of pollution and reads as under:

"54H. Powers of Central Government to make rules for prevention and control of pollution. —(1) *The Central Government may make rules for the purposes of this Chapter.*

(2) *In particular, and without prejudice to the generality of the foregoing power, such rules may—*

(a) *prescribe the designated hazardous chemical and obnoxious*

substance under clause (a) of section 54D;

(b) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases;

(c) prescribe details of reception facilities at inland port, cargo or passenger terminal;

(d) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto;

(e) any other matter which is to be, or may be, prescribed.]

82. The provisions of the above Act have to be read consistent with the environmental laws since provisions of I V Act, 1917 were not given any over-riding effect over any other law on the subject of prevention of pollution and we find that provisions of Water Act, 1974, Air Act, 1981 and EP Act, 1986 have been given over-riding effect.

83. I V Act, 1917 has been superseded and replaced by Indian Vessels Act, 2021 (Act no. 24 of 2021) (hereinafter referred to as **I V Act, 2021**) published in the Gazette of India (Extraordinary) dated 12.08.2021. Section 1 and 106 of the above Act have been brought in force w.e.f. 16.02.2022 vide notification of the same date published in Gazette of India (Extraordinary) of the same date and the remaining provisions have been made effective vide notification dated 07.06.2022 published in Gazette of India (Extraordinary) of the same date. Section 2 to 105 and 107 to 114 have been made effective w.e.f. 07.06.2022.

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84. Purpose of the I V Act, 2021 is to promote economical and safe transportation and trade through inland waters to bring uniformity in application of law relating to inland waterways and navigation within the country, to provide for safety of navigation, protection of life and cargo and prevention of pollution that may be caused by the use or navigation of

inland vessels and to ensure transparency and accountability of administration of inland water transportation etc.

85. The term 'Inland Water', 'vessels', 'passenger vessels', 'oil', 'obnoxious substance', 'mechanically propelled inland vessel', 'inland vessel' and 'hazardous chemical' are defined in Section 3(r), 3(zu), 3(zj), 3(ze), 3(zc), 3(y), 3(q) and 3(p) as under:

"3(r) "inland waters", for the purpose of inland navigation, includes any—

(i) canal, river, lake or other navigable water inward of baseline or as may be declared by notification in the Official Gazette by the Central Government;

(ii) tidal water limit, as may be declared by notification in the Official Gazette by the Central Government;

(iii) national waterways declared by the Central Government; and

(iv) other waters as may be declared by notification in the Official Gazette by the Central Government;

3(zu) "vessel" includes every description of water craft used or capable of being used in inland waters, including any ship, boat, sailing vessel, tug, barge or other description of vessel including non-displacement craft, amphibious craft, wing-in-ground craft, ferry, roll on-roll-off vessel, container vessel, tanker vessel, gas carrier or floating unit or dumb vessel used for transportation, storage or accommodation within or through inland waters;

3(zj) "passenger vessel" means any vessel permitted to carry more than twelve passengers;

3(ze) "oil" means any edible oil carried on vessel as cargo or persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, carried on board of a vessel as cargo or fuel;

3(zc) "obnoxious substance" means any substance, which has been designated as pollutants under this Act or any other law for the time being in force in India;

3(y) "mechanically propelled inland vessel" means—

(i) any inland vessel in the inland waters which is propelled by mechanical means of propulsion; or

(ii) floating units, floating surfaces, dumb vessels, barges, rigs, jetties or such other non-mechanically propelled inland vessel, which are towed or pushed with the assistance of another mechanically propelled vessel and used for carriage, storage, transportation and accommodation of passengers and cargo in or through inland waters;

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3(q) **"inland vessel"** includes any mechanically propelled inland vessel or non-mechanically propelled inland vessel which is registered and plying in inland waters, but does not include—

(i) a fishing vessel registered under the Merchant Shipping Act, 1958 or the Marine Products Export Development Authority Act, 1972; and

(ii) any vessel that are specified as not to be inland vessels by notification by the Central Government.

Explanation—For the purposes of this clause, it is clarified that a vessel registered under the Merchant Shipping Act, 1958 and plying within the inland waters shall be deemed to be an inland vessel registered under this Act;

3(p) **"hazardous chemical"** means any chemical, which has been designated as pollutants under this Act or any other law for the time being in force in India;"

86. Here also the certificate of survey is necessary for operation of a mechanically propelled inland vessels in view of prohibition contained in Section 14 of I V Act, 2021. The provision of registration of the vessels is also provided in Section 17 and Section 18 prohibits operation of any mechanically propelled inland vessels without certificate of registration. Chapter IX deals with pollution caused by inland vessels containing Sections 52 to 56 which read as under:

"52. (1) The Central Government shall, by notification, designate the list of chemicals, any ingredients or substance carried as bunker or as cargo, or any substance in any form discharged from any mechanically propelled inland vessel, as pollutants.

(2) The owner or master of any mechanically propelled inland vessel shall discharge or dispose of the sewage and garbage in accordance with such standards and manner as may be prescribed by the Central Government.

(3) No mechanically propelled inland vessel shall cause pollution by discharging or dumping of pollutants designated under sub-section (1):

Provided that nothing in this sub-section shall apply to the discharge dump or emission of such oil or oily mixture, hazardous chemical or obnoxious substance or any other pollutant, as the case may be, from a mechanically propelled inland vessel for the purpose of securing the safety of any mechanically propelled inland vessel, preventing damage to

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another mechanically propelled inland vessel, cargo or saving of life at inland waters.

53. (1) *The Central Government shall, by rules made in this behalf, specify the standards of construction and equipment of the mechanically propelled inland vessels to ensure compliance with the requirements of this Chapter.*

(2) The State Government shall appoint or authorise such officers to ensure construction, installation and maintenance of equipment of all mechanically propelled inland vessels and issue certificate of prevention of pollution, in compliance with the provisions of this Chapter.

(3) Every mechanically propelled inland vessel, which has been constructed and equipped in compliance with this Chapter shall be issued with a certificate of prevention of pollution in such form, validity and content as may be prescribed by the Central Government.

(4) Every mechanically propelled inland vessel shall carry on board a valid certificate of prevention of pollution and shall furnish the same on demand by concerned officers appointed or authorised under this Chapter.

54. (1) *The Central Government shall, by rules made in this behalf, specify the conditions for construction, use and maintenance of reception facilities for the containment of pollution and removal of pollutants arising from spillage or discharge arising from mechanically propelled inland vessels at all cargo terminals or passenger terminals.*

(2) The owner or operator of all cargo terminals or passenger terminals shall provide reception facilities to discharge oil, oily mixture, hazardous chemicals, sewage or obnoxious substances at such cargo or passenger terminal, as the case may be, in compliance of sub-section (1).

(3) The owner or operator of all cargo terminals or passenger terminals, providing reception facilities shall receive charges, at such rates as may be prescribed by the State Government.

(4) For the purposes of minimising the pollution already caused, or for preventing the imminent threat of pollution, the Central Government or such other officer appointed by the State Government may, by order in writing, direct the owner or operator of cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipment and pollutant removing materials, at such cargo and passenger terminal, as may be specified in such order.

(5) The owner or operator of the passenger or cargo terminal shall submit a report of compliance to the Central Government or such other officer appointed under sub-section (4), in such form as may be prescribed by the State Government.

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(6) The owner, operator or master of any mechanically propelled vessel used or plying within inland waters, shall discharge the pollutants at the port reception facilities in such manner as may be prescribed by the State Government.

55. (1) *The State Government may appoint or authorise such officers as surveyors to inspect any cargo or passenger terminal lying within its respective jurisdiction.*

(2) The surveyor authorised under sub-section (1) may, at any reasonable time, enter and inspect any cargo or passenger terminal to—

(a) ensure that the provisions of this Chapter are complied with;

(b) verify whether such cargo or passenger terminal is equipped for pollution containment and removal, in conformity with the order of the State Government or any of the rules made under this Chapter; and

(c) satisfy himself of the adequacy of the measures taken to prevent pollution.

(3) If the surveyor, on inspection, finds that the cargo or passenger terminal is not provided with the required pollution containment equipment and pollutant removing materials, he shall give a notice in writing pointing out the deficiencies and the recommended remedial measures to rectify such deficiency, that is identified during the inspection, to the owner or operator of such cargo or passenger terminal, as the case may be.

(4) No owner or operator of such cargo or passenger terminal, as the case may be, served with the notice under sub-section (3), shall proceed with any work at such cargo or passenger terminal, until he obtains a certificate signed by the surveyor to the effect that the cargo or passenger terminal, is properly provided with the required pollution containment equipment and pollutant removing materials in conformity with the rules made under this Chapter.

56. (1) *The State Government shall direct any designated authority or such other authorised officer appointed under Chapter XIII to conduct investigation into incidents of pollution.*

(2) The State Government shall update the Central Government with such information or report of the court, if so directed by such court concerned, on incidents of pollution that occurs within its jurisdiction."

87. Section 111 provides that provisions of I V Act, 2021 shall be in addition to, and not be construed in derogation of the provisions of any other law and shall be construed as consistent with such law, for the time

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being in force. It reads as under:

“111. (1) The provisions of this Act shall be in addition to, and not be construed in derogation of the provisions of any other law, and shall be construed as consistent with such law, for the time being in force.

(2) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force in the whole of India or restricted to the application within the territory of any State, the provision of this Act shall prevail to the extent of such conflict.”

88. We have referred to these provisions and statutes to show that where the mechanically propelled Cruise Boats even for re-creational purposes carrying large number of passengers are operated in inland water, safety of passengers, protection of environmental etc. are issues which have attracted attention of Legislature from time to time and Statutory Provisions have been made to regulate the same.

89. Motor propelled vessels i.e., Cruise Boats which are being run by respondents' authorities in the water bodies having capacity of more than 12 passengers are clearly within the ambit of the Statute and beside other regulations in respect of prevention of pollution, they are bound to follow and comply with the provisions of environmental laws. It may also be noted at this stage that running of Cruise Ships/Boats/Vessels in Inland Waters is not a charity or a service but constitute part of **'travel industry'** or **'entertainment industry'** or **'leisure industry'**. They are running for consideration and to provide a package of entertainment and joy ride to the consumer people at large. The mere nomenclature of Cruise Ships or Boats is not of any material consequence for the reason that broadly, difference between ship and boat is based on their area of operation and size. Ships are normally vessels that are operated in marine waters i.e., oceanic areas and high seas while large boats having the facilities of entertainment, dining, running in inland waters are called Cruise Boats and sometimes casually as Cruise Ships.

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90. The Cruise Boat or Ship is a floating asset of a commercial or industrial activity, carry on by the operators with commercial objectives on inland water and, therefore, it cannot be said that the provisions of environmental laws are not applicable. In fact, the prohibitions under environmental laws is much wider and broad based.

91. Now we may consider whether running a Cruise Boat operated by motors with organic fuel, whether attract the provisions of Water Act, 1974.

92. As we have already said, definition of 'Stream' is very wide and various water bodies with which we are concerned are included within the term '**Stream**'.

93. Section 24 of Water Act, 1974 imposes restriction/prohibition from permitting entry into stream, well, sewer or land, any poisonous, noxious or polluting material which does not meet the standards prescribed by concerned State Pollution Control Board. The restriction is not applicable only to direct action but indirect action also.

94. Section 25 provides that no person shall establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land. Here also, the restriction is not only when somebody is establishing an industry but also applicable to all operations or processes or even treatment and disposal system.

95. Running of a Cruise Boat in a water body is an operation which is likely to discharge sewage or trade effluent into the stream as defined in Section 2(j). The term '**trade effluent**' is defined in Section 2(k). Here also the definition is inclusive. It reads as under:

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“2(k) “trade effluent” includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industry, operation or process, or treatment and disposal system, other than domestic sewage.”

96. The definition includes any liquid, gaseous or solid substance meaning thereby, all three forms of substance are covered and included and if any of them or all or more than one is/are discharged from any premises used for carrying on any industry, operation or process or treatment and disposal system other than domestic sewage, it will be within the ambit of ‘trade effluent’. Here, trade effluent is in contradiction with domestic sewage. What is not domestic sewage is covered by the term ‘trade effluent’. The meaning of the words ‘industry’, ‘operation’ or ‘process’ has to be drawn and understood in the context that if it is not domestic, it will be within the ambit of any of these terms. Here the cruise has two stories built on its base with accommodation for 80 people. This covered area of cruise is the premises wherefrom if effluent is discharged, it is within the mischief of the above statute.

97. Cruise Boat on voyage on inland water is a floating asset i.e., a floating territory and is covered by the term ‘industry’. It is more so as we have seen that in the last few decades Cruise industry has flourished in a very large way whether in marine waters or inland waters and a composite package is provided to the passengers/users/beneficiaries for their entertainment or luxury or joy rides which may be for a shorter period of one or two hours or may be for a few days. The concept of industry has developed with innovative ideas of industrial entrepreneurs. These days aircrafts, watercrafts and even spacecrafts are different kinds of industries comprising trading spaces on their bodies. Polluting matters discharged from their bodies, which may be termed as premises also in wider sense, may attract provisions of environmental laws.

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98. The term 'operation' or 'process' are very wide and we find no reason to put any restriction on the ambit of these two terms. When a Cruise Boat is allowed to operate in a water body, it is capable of discharging trade effluent into the stream in which it operates. Here the trade effluent can be in any form, whether liquid, gas or solid. Obviously, running of Cruise Motor Boats for public entertainment for recreational purposes is not a domestic use or domestic operation or domestic process.

99. It is contended that whatever solid or liquid waste is generated on the Cruise Boat, that is collected and discharged on the land separately and nothing is thrown and discharged into the stream. This fact has not been found correct by CPCB team in its report.

100. Here we are not confined with the solid or liquid water or garbage generated and collected at the Cruise during the course of its operation. The reports which are placed before us show that the Cruise Boat is operated with two diesel engines of 125 HP capacities i.e., total capacity comes to 250 HP. Besides, a DG set of 12.3 KVA is also installed for power back up. A Report dated nil was submitted by MPPCB after inspecting the Cruise Boat by Shri Brijesh Sharma, Regional Officer, Bhopal, Shri A.K. Bisen, Executive Engineer, Bhopal and Shri Salman Khan, Sub-Engineer, MPPCB, Bhopal on 22.11.2022. Applicant filed a detailed objection to this Report and thereafter, a detailed inspection was made by officers of CPCB on 6th and 7th February, 2023. The basic facts with regard to installation of two diesel engines of 125 HP capacity and 1 DG set of 12.3 KVA were found by the said team also. They also said that Cruise is equipped with three batteries on one side and one battery on the other side of Cruise for power back up to the engines; three diesel storage tanks of 90 liters capacity each are provided for storage of diesel meaning thereby, total

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stored capacity of diesel in the tanks was 270 liters.

101. However CPCB team found that the ambient noise level was breached with music and without music, noise exceeded the limits prescribed under Noise Pollution Rules, 2000. The operators claimed that two diesel engines of 125 HP capacity are having leakage and spillage proof technology but as a matter of fact, CPCB officers found spillage of diesel oil near the engines and DG at bottom of Cruise. Committee also found visual emission from the exhaust pipes of the motors though operators claimed that engines were designed for zero emissions. There was every possibility of spillage of oil during filling of diesel in engines and DG sets but no platform was provided for collected back spillage of oil.

102. The path of Cruise was quite close to Van Vihar National Park, falls under 'Silent Zone', but noise pollution was being caused and it was likely to affect/damage the ecological balance of Van Vihar National Park by disturbing wild life in the said Park. Lastly, no record of waste oil or used oil was maintained. There was clear violation of HOWMTM Rules, 2016.

103. Storage of oil was found near the engines, DG set and on bottom of Cruise, that means, the oil was entering the Lake water also having been found at the bottom of Cruise. The claim of Zero emission was also not found correct and visual emission from exhaust pipe was found by CPCB team. Committee also found that wash basin waste water was also being directly discharged in the Lake water. It is not that the quality of water of Lake is very good as it has been found in 'C' Category (with moderate pollution) and also had a sewage contamination. It is an overall impact which a water body may have with the passage of time if not at a particular point of time when it will immediately get polluted but the with the passage of time, the situation may deteriorate.

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104. The provisions of Water Act, 1974 are clearly applicable. Since no Consent has been obtained by the operators of Cruise Boats or Motor Boats under Water Act 1974, running of same is clearly illegal.

105. Similarly, Air Act, 1981 is also attracted. Emission of any air pollutant amounts to air pollution. Air pollutant is defined as to constitute solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property. The term 'emission' is defined in Section 2(j) of Air Act, 1981, as under:

"2(j) "emission" means any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet;

106. Section 22 prohibits discharge or cause or permit to be discharged emission of any air pollutant in excess of the prescribed standards.

107. It is contended that Cruise Ship/Boat/Motorised Boat are not industry within the definition of industry under Industrial Disputes Act, 1947. In our view, reference to Industrial Disputes Act, 1947 for considering application of Air Act, 1981, Water Act, 1974 and EP Act, 1986 is thoroughly misconceived. The purpose of definition of 'industry' in Industrial Disputes Act, 1947 is totally different while under the environmental laws, the purpose is protection of environment and, therefore, the terms have to be given widest permissible meaning. In order to attract the provisions of Air Act, 1981, we find that the term 'industrial plant' is defined in Section 2(k) and reads as under:

"(k) "industrial plant" means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere;"

108. 'Industrial plants' include any plant used for any industrial or trade purposes, therefore, anything which is used even for trade purposes is

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within the term 'industrial plant' under Air Act, 1981.

109. We also find that the term '**Occupier**' has been defined under Section 2(m) and it is not confined to a factory but covers even a premises which is a very wide term. Purpose of Air Act, 1981 is to prevent air pollution effectively and, therefore, the terms used in Air Act, 1981 have to be given the widest permissible meaning.

110. A Cruise used for recreational purposes for the public at large against consideration is clearly a plant used for trade purposes and if it emits pollutants in the air causing pollution, it attracts the prohibition contained in Air Act, 1981 and, therefore, needs consent under the said Act. No such consent has been obtained for operating Cruise in the case in hand.

111. We also find violation of HOWMTM Rules, 2016 which have been framed in exercise of powers under Sections 6, 8 and 25 of EP Act, 1986 and violation whereof, is an offence under Section 15 of the said Act. The term '**Hazardous Waste**' is defined in Section 3(17) and reads as under:

"(17.) "Hazardous waste" means any waste which by reason of characteristics such as physical, chemical, biological, reactive, toxic, flammable, explosive or corrosive, causes danger or is likely to cause danger to health or environment, whether alone or in contact with other wastes or substances, and shall include -

- (i) waste specified under column (3) of Schedule I;*
- (ii) waste having equal to or more than the concentration limits specified for the constituents in class A and class B of Schedule II or any of the characteristics as specified in class C of Schedule II; and*
- (iii) wastes specified in Part A of Schedule III in respect of import or export of such wastes or the wastes not specified in Part A but exhibit hazardous characteristics specified in Part C of Schedule III;"*

112. It is not disputed before us that diesel is a hazardous substance,

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attracting the provisions of HOWMTM Rules, 2016. Rule 6 requires every occupier of the facility who is engaged in handling, storage, transportation, use etc. of hazardous and other waste to obtain authorization for the said purpose. No authorization has been obtained by the operators of Cruise in the present case.

113. However, it is contended that the provisions of Rule 6 are applicable to an occupier of the facility. The term '**facility**' is defined in Rule 2(15) and it is said that Cruise Boat cannot be treated to be a facility. However, we find it difficult to accept this contention. Here also the term 'facility' is used in a very wide sense by referring to any establishment. A Cruise Boat in its entirety is an establishment which carry out the processes incidental to storage, handling of hazardous and or other wastes.

114. We have already said that the term '**hazardous waste**' is defined in Rule 3(17) while term '**other wastes**' is defined in Rule 3(23) and reads as under:

"23. "other wastes" means wastes specified in Part B and Part D of Schedule III for import or export and includes all such waste generated indigenously within the country;"

115. The term '**waste**' is also defined in Rule 3(38) as under:

"38. "waste" means materials that are not products or by-products, for which the generator has no further use for the purposes of production, transformation or consumption.

Explanation.- for the purposes of this clause,

- (i) waste includes the materials that may be generated during, the extraction of raw materials, the processing of raw materials into intermediates and final products, the consumption of final products, and through other human activities and excludes residuals recycled or reused at the place of generation; and*
- (ii) by-product means a material that is not intended to be produced but gets produced in the production process of intended product and is used as such;"*

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116. Various processes which a facility may carry out includes utilization and the term '**utilization**' as defined in Rule 3(37), reads as under:

"37. "utilisation" means use of hazardous or other waste as a resource;"

117. The term '**used oil**' is defined in Rule 3(36) as under:

"36. "used oil" means any oil-

- (i) derived from crude oil or mixtures containing synthetic oil including spent oil, used engine oil, gear oil, hydraulic oil, turbine oil, compressor oil, industrial gear oil, heat transfer oil, transformer oil and their tank bottom sludges; and*
- (ii) suitable for reprocessing, if it meets the specification laid down in Part A of Schedule V but does not include waste oil;"*

118. Looking to the entirety of the provisions of HOWMTM Rules, 2016 and the fact that the same are beneficial and for protection of environment, we are of the view that the same would apply to the Cruise Boats in question.

119. Thus, we are of the view that Cruise(s) run/operates in inland waters mechanically propelled, using motors and fuel/diesel oil/petrol are within the ambit of provisions of Water Act, 1974, Air Act, 1981 and EP Act, 1986 and rules framed thereunder. Since no consent/ NOC/ Clearance/ permission has been obtained from the Statutory Regulator or Competent Authority under the relevant environmental laws including Rules framed under the aforesaid Statutes, running of Cruise Ships/Boats in various water bodies of State of Madhya Pradesh which are detailed above including Bhoj Wetland is illegal and cannot be allowed to continue in violation of the above provisions.

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120. It is argued that plying of non-motorized boats is a regulated activity in para 4(B) and community based eco-tourism (with minimum

construction activity) is a permitted activity under para 4(C). Since motorized boats is not mentioned as such in the order dated 16.03.2022, it means that there is no restriction of plying of motorized boats in the wetland and therefore, running of Cruise Boat which is operated by motors is neither illegal nor contrary to the provisions of Wetland Rules, 2017 and statutory orders issued therein.

121. We find no merit in the submission.

122. When out of various modes, one mode is specifically mentioned in a statutory order, unless there is an inbuilt suggestion, the remaining modes will be treated to be deliberately omitted and cannot be treated to be permitted activities. Community based eco-tourism cannot be extended to the term plying of motorized boats which is a serious activity when plying of non-motorized boats has been kept in the category of regulated activities. In our view, the term 'conversion for non-wetland uses' in para 4(A)(a) of the order dated 16.03.2022 is very wide and cover all activities unless specifically mentioned in regulated or permitted categories. Further, there is a complete prohibition in respect of storage of hazardous substance covered by HOWMTM Rules, 2016.

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123. In our view, plying of non-motorised boats in a regulated manner is permitted by the order dated 16.03.2022 read with Wetland Rules, 2017 though it is a non-wetland use but the plying of motor boats is totally prohibited and cannot be allowed in a wetland since it is non wetland use and is totally prohibited. Use of wetland for an activity which is prohibited is per-se illegal and is an offence under Section 15 of EP Act, 1986.

124. Now coming to the aspect of illegal construction in the area of Zone of Influence, it is no doubt true that temporary construction or temporary jetty for use of the boats is a permitted activity and by itself will be not

objected by application of the provisions of Wetland Rules, 2017 read with administrative order dated 16.03.2022. However, photographs appended to the documents show that for the purpose of construction of restaurant/waiting area, trees have been cut but it has not been placed on record that permission from the Competent Authority was obtained.

125. On this aspect, we find that Principal Chief Conservator of Forest of the concerned area would look into this matter and take appropriate action in accordance with law.

126. We further provide that no permanent construction shall be allowed to be raised within the 'No Development Zone' i.e., 'Zone of Influence' or 'buffer zone' as provided in Wetland Rules, 2017. We also make it clear that in case any permanent construction has been raised within 'wetland area' or 'Zone of Influence' or 'buffer zone', the same shall be demolished forthwith and MPPCB is directed to ensure compliance of this direction.

127. In view of the above discussion, **the issues formulated above, are answered against the respondents and in favour of applicant.**

128. With regard to other bodies, discussions and observations made above will equally apply and shall be observed, followed and complied accordingly in words and spirit and strictly.

129. In the result, respondents' authorities are directed to stop operation of Cruise and other motor propelled boats in Bhoj Wetland being Ramsar site and other wetlands, details given herein above, forthwith. They are restrained from raising any permanent construction within 'Zone of Influence' of water bodies/wetlands and if any permanent construction has been raised, the same shall be demolished.

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130. The respondents are restrained from running Cruise Boats and any other boat operated with motors in Bhopal Lake (Ramsar site) and other designated wetlands. The above restrictions will not apply to non-motorised Boats/Cruises. However, if such non-motorised Boats and Cruises deploy any system creating noise etc., the relevant environmental Statutes shall be followed.

131. The operation of the boats in the lakes/water bodies not designated as wetlands may be carried out with the boats fitted with four stroke outboards engines as being utilized in more than three dozen Countries in the World, subject to compliance of environmental laws.

132. The fitness standards of the boats should be given top priority and accordingly periodical and regular maintenance of the boats had to be carried out. Fitness of boats should include inspection of boats from top to bottom, inspection of wear and tear, fibre and wooden repair, noise level, oil/grease leakage, checking buoyancy and balance of the boats, painting and polishing work etc.

133. MPPCB and Forest Department shall also ensure that the activities within prohibited range from Reserved Forest, National Parks, Eco-Sensitive Zone etc. are not allowed so as to disturb, disrupt and damage wildlife activities unless due permission/clearance/NOC, if permissible, is obtained from the concerned authorities.

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134. MoEF&CC and CPCB are directed to formulate a SoP for the motorized boats in water bodies/lakes (not designated as wetlands), if the motors are fitted with four stroke outboard engines or operated by green fuel and do not cause any damage to water and air ecology and environment.

135. The above directions shall be carried out by the respondents and MPPCB shall ensure compliance thereof and submit an action taken Report within 3 months before Registrar of Central Zonal Bench, Bhopal by e-mail at ngtcbbo-mp@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF, who if finds necessary, may place the matter before the Bench for further order if necessary.

136. With the above observations/directions, this OA is allowed. Pending IAs stand disposed of.

137. Copy of this order be forwarded to Regional Office, MoEF&CC at Bhopal, Secretary, MoEF&CC, CPCB, Member Secretary, MPPCB, Commissioner, BMC, Chief Secretary, State of Madhya Pradesh, Secretary, Environment Department, Secretary, Forest Department, Department of Water Resources, River Development and Ganga Rejuvenation, Bhopal Smart City Development Corporation Limited, MP State Wetland Authority, Secretary, MP Tourist Department and MP Tourism Board for information and compliance.

SUDHIR AGARWAL,
JUDICIAL MEMBER

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DR. AFROZ AHMAD,
EXPERT MEMBER

September 12, 2023
Original Application No. 82/2022(CZ)
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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2024
(Arising out of Diary No.664 of 2024)

MADHYA PRADESH STATE TOURISM DEVELOPMENT
CORPORATION LTD. ...Appellant(s)

Vs.

SUBHASH C. PANDEY & ORS. ...Respondent(s)

O R D E R

Permission is granted to file Civil Appeal.

Heard the learned senior counsel appearing for the
appellant-Madhya Pradesh State Tourism Development
Corporation.

Delay condoned.

By the impugned order, an effort has been made by the
National Green Tribunal (NGT) to save various lakes in the
State. If the lakes are protected, perhaps it will attract
more tourists. We fail to understand how Tourism
Development Corporation of the State can be aggrieved by the
directions issued by the NGT to protect the lakes.

The appeal is accordingly dismissed.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
March 04, 2024.

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ITEM NO.32

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 664/2024

(Arising out of impugned final judgment and order dated 12-09-2023 in OA No. 82/2022 passed by the National Green Tribunal, Central Zonal Bench, bhopal)

MADHYA PRADESH STATE TOURISM DEVELOPMENT CORPORATION LTD.

Petitioner(s)

VERSUS

SUBHASH C. PANDEY & ORS.

Respondent(s)

(IA No.12392/2024-CONDONATION OF DELAY IN FILING and IA No.12390/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.12389/2024-EX-PARTE STAY and IA No.12388/2024-PERMISSION TO FILE APPEAL)

Date : 04-03-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s)

Mr. Saurabh Mishra, Sr. Adv.
Ms. Vanshaja Shukla, AOR
Ms. Ankeeta Appanna, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending applications also stand disposed of.



(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)

IN THE HIGH COURT OF MADHYA PRADESH,**PRINCIPAL SEAT AT JABALPUR, M.P.****W.P. (PIL) No. 16479/2026**i. A. No.
8656

2026

IN THE MATTER OF:**Kamal Kumar Rathi****.....PETITIONER****VERSUS****The State of Madhya Pradesh & Ors.****.....RESPONDENTS****APPLICATION SEEKING IGNORANCE OF DEFAULT, IF ANY****MOST RESPECTFULLY SHOWETH:**

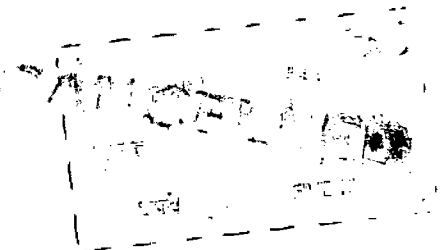
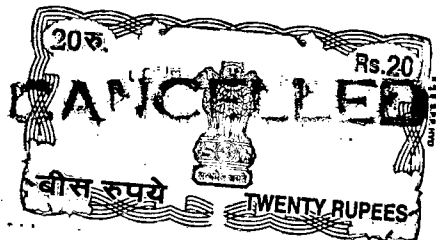
1. That the captioned matter has been filed by the Petitioner herein, which is pending adjudication before this Hon'ble Court.
2. That the captioned matter is urgent in nature as it pertains to the unfortunate death of about 10 people in a dreadful Cruise Incident at Bargi Dam, due to complete negligent behavior of the concerned authorities (respondents).
3. That the petitioner herein will cure the defect (if any) pointed out by the registry, at the earliest possible opportunity.
4. That as the matter is urgent in nature, the petitioner herein humbly requests to ignore the defect, if any, pointed out by the Registry. It is requested that the defect (if any) may be ignored and the matter be heard on merits.

Date: 04.05.2026

Place: Jabalpur

HARPREET SINGH GUPTA

Counsel for Petitioner



VAKALATNAMA
IN THE HON'BLE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR
WP (PIL)/ /2026

101

IN THE MATTER OF :

16479

KAMAL KUMAR RATHI

.....PETITIONER

VERSUS

STATE OF M.P. AND ORS

.....RESPONDENTS

I, the above named Petitioner, do hereby appoint, authorize, and engage the below mentioned advocate(s) to Act, appear and plead in the above-noted matter. This authorization shall include signing, file, verifying present appeal, pleadings, petitions for executions, review, revision, withdraw, compromise or file other petitions or affidavits or documents/applications in this court or any other court as may be deemed necessary for proper execution of the said appeal in all its stages subject to agreed terms and conditions including payment of fees.

And I/We the undersigned so hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts as done by me/us to all intents and purposes. IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 2nd day of May, 2026.

S No.	Name and Father's Name	Address	E-mail	Mobile	Full Signature
1.	Kamal Kumar Rathi S/o Shri Ram Ratan Rathi	E2/48, Arera Colony, Bhopal, M.P.		7587511100	K.K. Rathi

Accepted

S No.	Name and Enrollment details	Address for Service	E-mail	Mobile	Full Signature
1.	Harpreet Singh Gupta Advocate MP/2199/2018	15, Satyamev Jayate Parisar, Ambedkar Chowk, Jabalpur	harpreetsingh @gmail.com	9620023614	H.S.
2.	Pratipal Singh Gupta Advocate MP/234/1985	15, Satyamev Jayate Parisar, Ambedkar Chowk, Jabalpur			Pratipal
3.	Srajan Jain Advocate MP/497/2025	15, Satyamev Jayate Parisar, Ambedkar Chowk, Jabalpur			Srajan

4.	Bhumika Sharma Advocate MP/597/2024	15, Satyamev Jayate Parisar, Ambedkar Chowk, Jabalpur			<i>Bhumika</i>
5.	Faiza Naved Advocate MP/ /2023	15, Satyamev Jayate Parisar, Ambedkar Chowk, Jabalpur			<i>Faiza</i>
6.	Chinmay Singh Kulhara Advocate MP/497/2025 500	15, Satyamev Jayate Parisar, Ambedkar Chowk, Jabalpur			<i>Kulhara</i>

7. Manan Agrawal
MP/4654/2021

Agrawal

