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Implementation of Ganga River Basin Management Plan

*Recommendations on Legal and
Institutional Aspects*

GRBMP: Ganga River Basin Management Plan

by

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Preface

In exercise of the powers conferred by sub-sections (1) and (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government has constituted National Ganga River Basin Authority (NGRBA) as a planning, financing, monitoring and coordinating authority for strengthening the collective efforts of the Central and State Government for effective abatement of pollution and conservation of the river Ganga. One of the important functions of the NGRBA is to prepare and implement a Ganga River Basin Management Plan (GRBMP).

A Consortium of 7 “Indian Institute of Technology”s (IITs) has been given the responsibility of preparing Ganga River Basin Management Plan (GRBMP) by the Ministry of Environment and Forests (MoEF), GOI, New Delhi. Memorandum of Agreement (MoA) has been signed between 7 IITs (Bombay, Delhi, Guwahati, Kanpur, Kharagpur, Madras and Roorkee) and MoEF for this purpose on July 6, 2010.

This report is one of the many reports prepared by IITs to describe the strategy, information, methodology, analysis and suggestions and recommendations in developing Ganga River Basin Management Plan (GRBMP). The overall Frame Work for documentation of GRBMP and Indexing of Reports is presented on the inside cover page.

There are two aspects to the development of GRBMP. Dedicated people spent hours discussing concerns, issues and potential solutions to problems. This dedication leads to the preparation of reports that hope to articulate the outcome of the dialog in a way that is useful. Many people contributed to the preparation of this report directly or indirectly. This report is therefore truly a collective effort that reflects the cooperation of many, particularly those who are members of the IIT Team. Lists of persons who have contributed directly and those who have taken lead in preparing this report are given on the reverse side.

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1. Introduction

The Ganga River Basin Management Plan (GRBMP) relates to diverse domains and therefore it is multi-dimensional. Based on inputs from a multi-specialty team, the Plan has identified need for wide ranging interventions – both technical and non-technical, in terms of among others, policies, programmes and infrastructure. The Plan recommendations are far reaching, transcend short-, medium- and long-terms and as regards implementation pertain to multiple agencies.

Moreover, during the process of developing the Plan one of the domains that have been investigated comprises legislative framework applicable in the Ganga River Basin, specifically for managing and harvesting of water resources, protection and conservation of river water quality, utilising the water courses for gainful applications, etc. This mapping of the legislative framework establishes focus on ‘exploitation of resources’ aspect over the last two centuries whereas considerations towards their protection and conservation are of rather recent origin, which have not necessarily received the priority that they deserve. Given the long stretch of River Ganga transcending several provincial jurisdictions, existence of a number of legislations relating to different subject matters and the corresponding authorities (may be with overlapping authority or jurisdiction), as regards implementation of the Plan, the mapping of legislations exercise has also led the investigators to inquire into the need for evolution of a comprehensive legislation which is specific to the National River Ganga and ‘her’ basin.

In this context, this brief report summarises findings of the investigations, available constitutional/ legal provisions and institutional mechanisms, and attempts to develop justification for a new/ alternate legislation and mechanism including the philosophy or premise of the proposed legislation. In addition, the report also includes as an annexure a draft bill for the proposed legislation which needs to be discussed and deliberated among wider stakeholders.

2. Key Findings out of the Mapping of Existing Legislations

Based on geomorphology, broadly the 2500 km long stretch of River Ganga is classified into three distinct stretches, viz., upper-stretch comprising the state of Uttranchal; middle-stretch comprising states of Uttar Pradesh, Bihar and Jharkhand; and lower-stretch comprising the state of West Bengal. In the upper stretch characterised by hilly topography, deep gorges, high turbulence, low temperature glacial melt; comparatively lower density of population and lower industrialization, the extent of contamination of the river due to anthropogenic activities is not perceived to be as much of an issue as maintenance of natural flow in the river and ensuring its continuity. On account of

prioritising exploitation of water resources for energy (and irrigation), construction of number of hydroelectric projects in the upper-stretch (e.g., Tehri Dam, etc.) has led to severely fragmented streams. As a result, the natural flow of River Ganga has been disrupted which has adverse impacts on ecology and socio-cultural practices on the downstream stretches.

An analysis of legislations in the upper-stretch¹ brings out provisions for, among others, basin-wide planning with the objective of optimum utilisation of natural resources. There are specific interventions to, among others, promote flora and fauna, control and mitigate soil erosion and regulate commercial mining of building materials, however it is noted that none of the legislations provides for basin contamination measurement system, maintenance of minimum and/or environmental flows or measures to address issues relating to hydrology. Given the fragile nature of the ecosystem in the upper-stretch it is imperative that all the concerns related to the quality and health of the ecosystem, socio-cultural aspects as well as public health are addressed appropriately.

In the middle and the lower stretches of Ganga all the issues come to the fore – be it contamination due to anthropogenic activities; water requirements for irrigation; navigation; dams and diversions; ecology and fisheries; and inter-state river management. In these stretches, given the topography and geomorphology, the river has been more manageable and water resources amenable for consumptive uses and accordingly there is plethora of legislation in the domains of irrigation, dams and diversions, and navigation.

A mapping exercise in the middle-stretch establishes existence of several legislations² out of which about 60%, which is not surprising, pertain to ‘resource exploitation’ aspect i.e., infrastructure and services for consumptive use of water resources for crop production and thereby enabling livelihood for millions of rural people in the fertile Gangetic planes. By and large these legislations deal with regulation of flows, operation and maintenance of infrastructure to that effect and to a fair degree on levy of user charges. In this domain it is interesting to note that while a number of legislations originated during the British era there are also some progressive legislations of recent origin which deal with the subject of participatory management of water resources,

¹The legislations mapped in the upper-stretch comprise Uttranchal Sanshodhan Act, 2001; Uttar Pradesh Panchayat Raj Act 1947 (Uttranchal Amendment) Act, 2002; Uttranchal River Valley (Development and Management) Act, 2005; and Uttar Pradesh Bhagirathi River Valley Authority Act, 1999.

²The legislations mapped in the middle-stretch comprise, among others, the Uttar Pradesh State Ganga River Conservation Authority, vide SO 2493(E), 30th Sep. 2009 (a Central Notification); Uttar Pradesh Water Supply and Sewerage Act, 1975; Bihar Irrigation Act, 1997; The Uttar Pradesh State Tube-Wells Act, 181936; The Uttar Pradesh Minor Irrigation Works Act, 1920; The U.P Fisheries Act, 1948; The Ganges Tolls Act, 1867, etc.

optimising usage of water by involving farmers - the ultimate beneficiaries, as regards irrigation demand.

There are few legislations on enabling institutional framework for exploitation of water resources for domestic and industrial water supply; as well as creation and operation of infrastructure for mitigation, control or monitoring of pollution from domestic and other sources. A set of legislations also deal with the subjects of ecology (fisheries) and navigation. Given the recent origin of the State of Uttarakhand, it is implicit that prior to the division of UP, legislations of this stretch were also applicable in the upper stretch of the river as well.

However, as in the case of state legislations in the upper-stretch, certain gaps are identified in this stretch as well. For instance, some of the important areas that are unaddressed comprise sand mining activities in the river basin and the channel with potential to cause soil erosion; unregulated usage of water from river basin for agriculture; hydrology and hydrogeology; basin flow monitoring system; usage of ecological and marine resources, etc.

As the river approaches its mouth on the Bay of Bengal, evidently the subject of navigation and 'commercial use of waterways' gain importance and accordingly one finds a number of legislations related to these domains in the state of West Bengal. Evidently under these legislations the focus is on regulation of activities either within river beds or issues related to the Ganga basin i.e., utilising and maintaining water channels – natural and/or manmade, from the point of view of movement of man and materials and not on the quality of the ecosystem per se. Here again it is noted that there are several legislations which were enacted during the British period and which are still in force in West Bengal. The state government has also enacted a set of laws regarding urban sanitation and municipal activities, water supply, sewerage and irrigations³. However, it is noted that major factors contributing to pollution of the river are not addressed in any of the state legislations. Other important gaps comprise, among others, lack of a measurement system to assess basin contamination, measures for prevention of soil pollution and restrictions on industrial usage of river water, etc.

As stated earlier, a number of legislations are from British period going back to the 19th century and it is evident that they do not respond to the current or emerging challenges- in terms of relevance or commensurate powers, in the changed socio-economic setting. In some cases the recommended monetary penalties are

³The legislations mapped in the lower-stretch comprise The Howrah Municipal Act, 1980; The Kolkata Municipal Corporation Act, 1980; The West Bengal Irrigation (Imposition of Water Rates) Act 1974; The West Bengal Irrigation (Imposition of Water Rates for Damodar Valley Corporation Water) Act, 1958; The Bengal Waterways Act, 1934; The Bengal Ferries Act, 1885; The Bengal Fisheries (Requisition and Acquisition) Act, 1965; The Calcutta Port Act, 1890; The Bengal Embankment Act, 1882.

insignificantly low which do not constitute the necessary economic disincentive or punishment for violators.

It is also evident that given the long stretch of the river transcending over diverse provincial /administrative boundaries, there are multiple governments and agencies involved and it has been a challenge to have them on a single platform and achieve synergy of action from the point of views of either sustainability or the health of the river ecosystem.

Recognising the limitations of the then prevailing state level legal and institutional framework, in early seventies and mid eighties the Government of India introduced comprehensive central legislations to safeguard the environment and water bodies. Among others, The Water Act, 1974 and the EPA, 1986 represent landmarks in the Indian environment management domain which have helped a great deal in addressing diverse issues related to protection of the water quality of River Ganga. Among others, EPA enables framing of rules and constitution of regulatory authorities in response to specific challenges in any part of the country and can therefore enable necessary interventions at central and/or state levels. The Wildlife Protection Act, 1972 - a precursor to these legislations, grants considerable powers to take necessary measures as may be required to protect, conserve and improve the river water quality for, among others, protection of 'Gangetic Dolphin' which is accorded highest protection on account of being classified as an 'endangered species'.

Above all the legislations, the provisions of the Indian Constitution, especially under Article 32 offer a major tool in the hands of the common man and the judiciary to proactively take legal recourse through Public Interest Litigation and seek redressal of violations that undermine the larger public good.

However, given the current status of the river and its ecosystem, it is evident that as regards the existing legislative framework around River Ganga there are wide ranging issues that need to be addressed and which pertain to efficacy, coverage, implementation and/or monitoring. It is also noted that apparently there are no legislations which deal with issues related to non-point pollution from agricultural fields, soil erosion and excessive public use of river water for different purposes, etc. Many issues concerning river management do not fall within the present legislative frame, such as maintenance of environmental/ ecological flows, protection of river basin ecology and biodiversity, maintenance of ground water table, consolidated plans for diversion of river waters in different stretches, discharge of sewage from urban centres, obstructions to river flows and loss of connectivity, use of floodplains and active floodplains, etc. There are also issues with the capacity of the relevant institutions as

regards their roles in handling and addressing social, economical and technical matters pertaining to the Ganga.

Given the increasing complexities arising out of the pressures of rising population in the entire basin of River Ganga, and given the recent pronouncement of the Government of India according her the status of a 'National River', there is an urgent need to develop clarity on these aspects. In this respect, it is imperative that policies and legislations embracing new paradigms are evolved which address hitherto unaddressed subjects.

3. Need and Justification for New Legislation

Ganga travels through many states and sustains life and livelihood of millions, all the way from her origin at Gangotri in the Himalayas to Gangasagar – its mouth on the Bay of Bengal. Being a legend and part of the Vedic civilisation, Ganga also binds all people living on or off her banks on the spiritual platform. Being an inter-state river, Ganga has met with varied treatment under the legislations of central and state agencies as regards use of riverbed and appropriation of water and mineral resources, abatement of pollution and regulation of industrial activities. In addition to numerous laws, after 35 years of independence, in the year 1985 on realization of deteriorating health of Ganga, the Government of India made a beginning towards restoration of her water quality and ecosystem under the Ganga Action Plan I (GAP-I). Another endeavour was made in the year 1993 under the GAP-II and under Yamuna Action Plan – the latter targeting another sacred Indian river which is one of the major tributaries of Ganga in north India and which joins her in the middle stretch at Prayag/Allahabad.

However, it is evident and increasingly recognised by all stakeholders that the policy, legislative or infrastructure interventions of last two decades to restore water quality of River Ganga have not been able to bring about desired results. In response to this exigency, the Government of India has attempted to revamp its conservation strategy by declaring River Ganga as the 'National River', thus officially according a distinctly higher status in comparison to other water bodies. Additionally, the idea underlying the creation of National Ganga River Basin Authority, 2009 is to approach the worsening situation of Ganga River and her basin in comprehensive and holistic manner. The problem confronted by Ganga requires all-inclusive solution which would ensure maintaining the desired level of minimum ecological flows besides implementing pollution abatement activities (i.e., prevention or control of discharge of domestic and industrial wastewaters). The problem also comprises pollution from non-point sources e.g., run off from rural settlements comprising, among others, fertilizers and pesticides from agricultural fields, open defecation, waste from dairy farms, leachates from open dumps of urban solid waste, dumping of animal carcasses and disposal of human dead bodies which together significantly contribute to pollution of the river and render her

waters unsuitable for varied uses – among others, her perceived sacredness which otherwise helps mobilise socio-cultural practices over the entire stretch. Equally important is the issue of dams and barrages for storing and diverting water for irrigation, domestic consumption and industry, which affect the flow, particularly during dry season and determine the health of the riverine ecosystem.

Myriad factors are contributing to decline of Ganga and her basin. As the contributors are numerous and fall under the purview or in the domain of different jurisdictions of the executive and the legislature at the central and the state levels, there is a need to contain the problem of Ganga in an all embracing manner in order to give a solution which would reflect Ganga not just as a geomorphological unit but also as a legend and a spiritual entity as believed by a predominant section of the Indian society (*For instance, as per a reference available in the Bhagvad Gita verse 10:31, Lord Krishna says “Of purifiers I am the wind, of the wielders of weapons I am Ram, of fishes I am the shark and of flowing rivers I am the Ganga”*).

Given the number of legislations at state and central levels with diverse mandates and jurisdictions, it is also evident that there is a need to bring coherence in the laws which touch upon these aspects relating to Ganga River. Unfortunately, it has been observed that environmental legislations have not played the intended role in combating the problem of pollution, especially river pollution.

Therefore it is evident that a specific and comprehensive law to address issues of regulation, conservation and development of the National River Ganga Basin is the pressing need to restore the holy river to her original form.

4. Philosophy and Basic Premise of the Proposed Legislation

In the above context, it is evident that the health of the river depends on the health of the river basin and therefore in the interest of the ecosystem and the public it is essential to adopt an integrated river basin management approach that focuses on not only maintenance and restoration of wholesomeness of all the rivers in the Ganga Basin but also preserves the basin itself. In order to accomplish this objective of wholesomeness of the river and its basin, it is mandated to adopt combination of preventive and corrective approaches which include prohibition and restriction of activities that directly or indirectly affect the wholesomeness of all rivers in the National River Ganga Basin. There is also a need to ensure continuity of the river as a geomorphological, ecological and spiritual entity epitomising ‘Aviral Dhara’.

Accordingly, the proposed Ganga River Basin Management Act should aim to prohibit and regulate activities that affect wholesomeness of the river, and creates institutions to regulate the activities thereon. The new legislation would not only propose conservation policies but also promote activities to preserve the Ganga basin. The adoption of a comprehensive legislation would ensure that the law achieves its social, human rights and environmental goals, and principle of public trust throughout the country with proper measures to protect the National River.

5. The NRGBM Act

In the backdrop of the arguments presented in the preceding sections, it is therefore proposed to legislate The National River Ganga Basin Management (NRGBM) Bill, 2014 to provide regulation, conservation and development of the National River Ganga Basin, and for the establishment of necessary institutional framework for effective and expeditious disposal of matters affecting NRGB. The Act will specifically cover issues related to Ganga River Basin and its restoration, restitution, natural flow, ecology, marine environment, etc. For the maintenance of 'wholesomeness' of river Ganga the Bill has taken a preventive approach for the preservation and conservation of Ganga River Basin. The sole focus is on River Ganga from its origin to the mouth and about the preservation and conservation of the Basin. In case of any environmental disputes on River Ganga, necessary action may be taken and remedy granted to river herself and no individual benefits will be granted. Under the legislation, among others, creation of a National River Ganga Basin Management Fund has been proposed for the purpose of meeting partial or full costs towards restoration of the river as well as for research in related fields.

6. Constitutional Provisions and Competence of the Parliament to Enact Such Laws

The Constitution of India provides for realization of fundamental rights and fulfilment of welfare goals in favour of people of this country. It is incumbent upon the Central Legislature to respect the ideals of the Constitution and invoke necessary legislative authority to enact a law on a subject matter which transcends spirituality, faith, belief and socio-cultural practices; geography, geomorphology, water resources and its uses; livelihood; and environment, and which traverses many state boundaries and jurisdictions.

Further, as regards harnessing of water resources while there are a number of successful references of standalone projects in the country, but when it comes to inter-state rivers, it is recognised that India has not been able to effectively develop/exploit

the potential through integrated river basin management approaches. There are number of inter-state rivers where the riparian states are at conflict e.g., Delhi and Haryana in the case of Yamuna; Karnataka and Tamil Nadu in the case of Kaveri; Maharashtra and Andhra in the case of Krishna and Godavari, etc. While water is a state subject, it is noteworthy that the Indian Constitution also has provisions which empower the Central Government to regulate inter-state rivers in public interest. In case of a conflict among two or more states on account of sharing of waters of an inter-state river, the powers of states are subject to any law made by the Parliament for the regulation and development of the inter-state river under consideration to the extent the control of the Union is declared by Parliament by law to be expedient in public interest (List-I entry 56)⁴. This means that Parliament can make a law taking over the regulation, development and management of an inter-state river for the common benefit of the riparian states and in overall national interest. It is our firm belief that the prevailing condition of the National River Ganga warrants immediate action on the part of the law-makers of the country for creation of such a law.

For enacting the proposed law, it is important to identify subject matters in List-II which may be seen as being in conflict with entry 56 of List-I. While Clause 2 of Article 246 grants exclusivity to the states to enact laws on subject matters specified in List-II, Article 246 (1) confers exclusive jurisdiction on the central government to enact laws on all subject matters specified in the Union list i.e., List-I. Therefore it is quite clear that the matter of regulation and development of inter-state rivers may not be in conflict with the legislative power of the states if the law refrains from impinging on matters within the domain of state legislatures.

The states have competence to legislate on aspects of water including water flowing through inter-state rivers, subject to certain limitations, viz., a) the control over the regulation and development should not have been taken over by the Union and b) the state cannot pass legislation affecting any aspect of water beyond its territory. Such competence of state legislature in respect of inter-state river water is denuded by Parliamentary legislation. Thereby, if any Parliamentary legislation declares that the control of the regulation and development of an inter-state river (viz. River Ganga) is expedient in public interest, the state(s) will not be entitled to make legislation with respect to that river under Entry 17 of List-II of the Constitution. Furthermore, a legislation under Entry 14 of List-II, relating to agriculture, etc., in so far as it relates to inter-state river water and its different uses, is subject to the provisions of Entry 56 of the Union List. Thus the Parliament i.e., the Central Government has exclusive

⁴The Inter State River Water Disputes Act 1956 is an Act of Parliament which has been enacted to resolve the water disputes that would arise in the use, control and distribution of an interstate river or river valley. It provides the mechanism to solve the dispute between states. It may be noted that the specific legislation addresses only the issue of conflicts pertaining to use, control and distribution of an interstate river.

jurisdiction to enact laws for regulation and development of inter-state rivers and basin of such rivers.

7. Model for Implementation of the Law

A precise and detailed law on the complicated subject of restoration of the River Ganga shall sustain with in-built enforcement mechanism. Therefore, creation of a dedicated institution in the form of a commission is suggested which shall ensure effective implementation of the law. The commission is expected to carry out a wide range of functions comprising, among others, monitoring and evaluation, investigations, research and development, policy and governance, IEC (information, education and communication), and advocacy. It is also proposed to be a regulatory agency with powers to impose fines on violators. In addition to this, it is proposed to create a tribunal to address grievances of affected parties, if the latter consider penalties are not just. Such a mechanism shall ensure responsible participation of all stakeholders of the Ganga Basin for its efficient management and protection.

8. Rationale for NRGBM Commission

Based on the analysis and arguments presented in the preceding sections, it is evident that a long-term program for implementation, monitoring, review and evaluation of environmental problems and interventions pertinent to National River Ganga Basin (NRGB) is urgently needed. Since these measures cover a wide variety of activities involving continuous monitoring and feedback from diverse sources, institutions and individuals, an independent agency is essential to conduct these activities in a coordinated manner. It is therefore proposed that a nodal agency, tentatively termed “National River Ganga Basin Management Commission” (NRGBMC), with adequate resources and authority be set up to ensure environmental health of NRGB. NRGBMC is proposed to be set up by an Act of Parliament⁵ and which should comprise legal luminaries, technical experts, government functionaries and civil society members.

⁵Refer Annexure for the tentative draft of the Bill.

9. Objectives and Mandate of the NRGBMC

NRGBMC is intended to serve as a custodian of National River Ganga Basin (NRGB) and work for its upkeep and improvement on the premise that health of National River Ganga is a key indicator of the health of NRGB as a whole. In this respect its mandate will be as follows:

- (1) It shall act as a regulator and protect the interests of River Ganga exclusively.
- (2) It shall take all measures necessary for conservation of the environment and sustainable development of National River Ganga Basin in a transparent and inclusive manner.
- (3) Such measures shall include, but will not be limited to the following:
 - (a) Ensuring that E-Flows are maintained in all rivers of the Ganga River Network at different locations and in different seasons.
 - (b) Protecting the geology and ecology of the National River Ganga Basin.
 - (c) Use of floodplains in appropriate manner, and after ensuring environmental impact assessment for approval of major projects in flood plains.
 - (d) Ensuring both short- and long-term measures for conservation and improvement of aquatic resources in National River Ganga Basin.
 - (e) Monitoring, review and dissemination of the National River Ganga Basin's environmental status in the public domain.

It is recognized that all actionable measures proposed under the GRBMP may not be implementable at one go, and the monitoring and review of environmental actions have to be a continuous process. However, the technical reports, database and action plans of the GRBMP being prepared by the consortium of 7 IITs can be taken as the starting point for the proposed NRGBMC.

9.1. Proposed Functions of the NRGBM Commission

The NRGBM Commission is envisaged to perform a wide range of functions which will transcend IEC, 'environment monitoring and impact assessment', investigations, research and development, policy and governance, and advocacy. In addition it is also proposed to take the role of a regulatory agency with powers to impose penalties in case of violations and collect fines towards building a corpus. A set of functions are detailed in the paragraphs that follow.

Information and Communication

- Procure primary and secondary data (both environment-related data as well as socio-economic, cultural, developmental and other data of NRGB) from

government and non-government agencies and pre-process the same to address any errors or inconsistencies.

- Compile the above data along with those obtained by NRGBMC itself through environmental monitoring and process them to obtain suitable representations in the form of maps, charts, parametric values, etc.
- Compile all useful environmental reports obtained from various sources in easily usable formats.
- Store all data and reports (soft- and hard-copies) in easily retrievable systems and make them accessible to interested users and other stakeholders.

Environmental Monitoring and Impact Assessments

Conduct or cause to conduct regular environmental measurements in NRGB for such information that is not regularly collected or available from other agencies. The data may be procured through in-house facilities and through outsourced works to technical and non-technical organizations and individuals (such as local governance bodies, schools, colleges, NGOs, community organizations, etc.)

- Conduct or cause to conduct random environmental measurements in the NRGB for specific or sporadic needs e.g., for the purpose of validation or ensuring completeness of the data as mentioned above. The data may be procured through in-house facilities and/ or outsourced as mentioned above.
- Pre-process all data collected for subsequent archiving and use.
- Conduct or cause to carry out environmental impact assessments of on-going and future developmental and infrastructure projects in NRGB as and when the need arises.
- Monitor developmental and infrastructure projects in NRGB for which EIA or preliminary environmental approval was granted by the Commission.
- Carry out field measurements and monitoring that may be needed for investigation purposes.

Investigation

- Investigate issues regarding non-implementation of measures relating to specified prohibition, restriction, conservation and promotion of activities.
- Investigate issues regarding non-compliance of policy decisions and guidelines issued by NRGBMC for environmental preservation of the National River Ganga Basin.
- Investigate issues regarding continuance of existing practices in contravention of NRGBMC's strictures.

Research and Development

- Evaluate national and international research reports on river basins for their pertinence to the NRGB environment.
- Conduct need-based applied research as may be possible by NRGBMC.
- Identify other major research needs of NRGB for communicating to the central and state governments.
- Conduct economic, sociological and cultural analyses and research pertinent to NRGBMC data bank as well as based on information procured from other agencies.
- From time to time review impacts of anthropogenic activities in NRGB.

Policy and Governance

- Review policies and plans of the centre and various state governments which are in force, under implementation or under consideration/ preparation.
- Frame policies to ensure satisfying environmental needs of NRGB.
- Formulate good governance guidelines.

Advocacy and Sensitisation

- Promote overall awareness among diverse stakeholders and the communities regarding environmental aspects and issues as relevant for NRGB; and the role of NRGBMC in addressing the same.
- Educate stakeholders (from rural communities to school students and urban interest groups) on comprehensive understanding of complex environmental processes and their interaction with anthropogenic activities. This will involve, among others, preparation of special educational material, conducting training of field educators, regular delivery of educational programs and getting feedback from diverse stakeholders.
- Conduct advanced level of interactive programmes with stakeholders and domain experts by regularly organising seminars, workshops, conferences, press meetings, etc.
- Conduct special campaigns to sensitize and motivate people to participate in improving health of NRGB.

9.2. NRGB Fund

With the objective of facilitating operations of the NRGBMC it is proposed that the Commission be allowed to generate resources on its own and create a specific corpus

called the National River Ganga Basin Fund. In this respect it is proposed that the NRGBMC must be empowered to impose penalties/ damages on individuals and agencies in the entire basin for any violation of its norms and guidelines on restrictions and prohibitions of environmentally harmful activities in the NRGB. All recoveries out of the penalties thus imposed should be deposited in a specific fund with the Central Government. The said fund should be utilized by the Government on the recommendation and consent of the NRGBMC for improvement of the environment in the NRGB. As an incentive to the public at large, NRGBMC should also be authorised to reward individuals and agencies who contribute exceptionally either by their reformatory or watchdog/ investigative actions towards restoration of the health of NRGB.

10. NRGBM Tribunal

10.1. Rationale for Establishing

The proposed legislation is a comprehensive and stand-alone legislation which combines within it matters relating to the preservation, regulation and development of the Ganga River Basin. The objective, scope and extent, permissible and non-permissible activities, institutional frame including grievance redressal mechanism have found mention in the Act. The Commission has been vested with exclusive powers to determine legal rights of various stakeholders relating to the subject matter of the law. It is therefore imperative that a separate appellate body, i.e., a tribunal be established to entertain appeals against the orders of the Commission.

10.2. Powers and Functions of the NRGBM Tribunal

The Tribunal is empowered to entertain appeals from aggrieved parties, to take *suo moto* action on matters relating to River Ganga in the interests of justice and the power to punish for contempt in case of non-compliance with its orders.

10.3. NRGBM Tribunal *vis-a-vis* National Green Tribunal

The object of the National Green Tribunal Act 2010 is to settle disputes relating to environment protection and conservation of forests and other natural resources including enforcement of legal rights relating to environment across the country. The Act also grants relief and compensation for damages to individuals and property related to the matters mentioned therein. As a dispute settlement body, the Green Tribunal has jurisdiction over all civil cases where any infringement of legal rights related to environment takes place. The National Green Tribunal is also an appellate body for all environmental legislations, such as the Water (Prevention and Control of Pollution) Act, 1974, the Forest Conservation Act, 1980, the Environment (Protection) Act, 1986, etc.

In the above context, let this be made clear that the proposed legislation is not seeking any replacement of NGT or discounting its role in any manner whatsoever. Neither is the NRGBM Tribunal being pitted against NGT in the instant legislation. Therefore, the question of overlap/dispute does not arise. Nevertheless the mandate of NGT is limited to settlement of disputes relating to environment whereas the mandates of both the NRGBM Commission and the NRGBM Tribunal relate to every facet of protection and conservation of River Ganga only. Table 1 hereunder seeks to pinpoint salient features of NGT (Column 3) and NRGBM C&T (Column 4). The latter are being taken as one holistic institutional frame within the proposed legislation. The last point on financial corpus in Table 1 relates to the NRGBM Commission on whose advice the central government, as custodian, shall utilise the same.

Table 1: Essential Features of National Green Tribunal and those Proposed for the National River Ganga Basin Management Commission

S No	Particulars	Green Tribunal Act	NRGBM Commission and Its Tribunal
1	Object	Settlement of disputes relating to environment.	Protection and conservation of River Ganga
2	Application	All civil cases relating to environment.	Specific to Ganga
3	Nature	Only dispute Settlement Body.	Coordinated & Self Contained Authority with powers of Investigation/Inquiry and adjudication.
4	Extent of Powers	Applicant to bring grievance before Authority.	<i>Suo moto</i> Action
5	Beneficiary	Persons affected victims of environment damage.	Victim is the River Ganga herself - sole focus is on her protection and conservation; There shall be no individual beneficiary per se.
6	Nature of Relief	Pay compensation or relief for death, injury, damage due to accident/ environment hazards.	Restitution, restoration and such other remedial measures for the conservation and protection of the National River Ganga Basin.
7	Applicability vis-à-vis other legislations.	Appellate body for all other environmental legislations.	Exclusive legislation to provide speedy and effective remedy for River Ganga.
8	Financial corpus	No unique or exclusive provision.	Creation of NRGBM corpus out of damages, etc. which will aid research/restoration of the River Ganga and the basin.

The salient points in support of a NRGBM Tribunal may be stated as follows.

- Inbuilt redressal mechanism on appellate matter within the law.
- Time bound disposal of cases.
- Specific subject matter of disputes on which appeals will be heard.
- Focussed object of serving the interests of River Ganga - not individuals affected by accident, disasters, etc.
- Power to take *suo moto* cognisance of matters in interests of justice.
- Vested with powers to undertake appropriate measures for the restoration of the River Ganga

It is to be recognized that establishing NRGBM Tribunal will incur expenditure and it would be quite challenging to get suitable manpower. However, it is expected that in the long-term the likely benefits would outweigh the expenditure to be incurred considering the importance of huge natural resources and critical ecosystem services that will be offered through regulation, conservation and development of the GRB.

11. Epilogue

River Ganga, having been declared as the National River by the Government of India requires prompt and effective measures to contain deterioration of its water quality. The proposed legislation is one such bold attempt towards a comprehensive and self-contained Act which provides for regulation, conservation and development of the basin. This legislation lists out activities which are prohibited, regulated as well as those that needs to be promoted in the basin. It provides for the establishment of National River Ganga Basin Management Commission and National River Ganga Basin Tribunal for effective and expeditious disposal of matters affecting the river basin with a view towards its restoration and conservation. The proposed legislation is a unique instrument which lays emphasis on research and development, continuous impact assessment, advocacy and sensitization as well as punitive action in case of violations.

All the wings of the NRGBMC are intended to work in close coordination and support the technical, scientific, legal and social upkeep of the National River Ganga and her basin. The institutional mechanism with comprehensive power base and wide range of functions seeks to work towards the development and protection of the basin and resolve all disputes arising there from.

The primary object of the legislation is to protect the National River Ganga which in turn attempts to protect the beliefs of a large majority of the country and interests of all other stakeholders. This legislation fulfils the long standing void in current legislative

framework on a single measure to protect the river and her basin. Furthermore, it is hoped that successful implementation of this legislation may help in making similar interventions for other major river basins of the country which are severely affected and contaminated as a result of anthropogenic activities and developmental pressure.

Annexure

The National River Ganga Basin Management Bill, 2014

(An ACT to provide for Regulation, Conservation and Development of the National River Ganga Basin, and for the establishment of National River Ganga Basin Management Commission and National River Ganga Basin Tribunal for effective and expeditious disposal of matters affecting the River Basin with a view to restore and conserve the river basin and for matters connected therewith or incidental thereto)

WHEREAS, the river Ganga is declared as the National River of India on November 5, 2008 by the Government of India considering its unique position in Indian society and world's natural heritage.

AND WHEREAS, it shall be desirable to adopt an integrated river basin management approach that focuses on maintenance and restoration of wholesomeness of rivers of the Ganga Basin in public interest.

AND WHEREAS 'Wholesomeness' in this context shall mean sanctity of the river system as imbibed in the following points:

- a. Continuous Flow ("Aviral Dhara") in time and space including maintenance of connectivity of flow in the river systems.
- b. Un-polluted Flow ("Nirmal Dhara") meaning that quality of river waters is not significantly affected by human activities.
- c. Rivers as Geologic Entities that is, rivers as the earth's creations of ancient times (over geological ages), which may not be recoverable if damaged.
- d. Rivers as Ecological Entities that is, rivers as delicately structured ecological balance between various living species and the physical environment achieved over thousands of years and vulnerable to irreversible change.

AND WHEREAS 'Public Interest' in this context shall mean welfare or wellbeing of all beings including the future generations.

AND WHEREAS, to attain the wholesomeness, it is mandated to adopt preventive and corrective approach, the Act shall prohibit, restrict and promote activities that directly or indirectly affect the wholesomeness of all rivers in the National River Ganga Basin.

AND WHEREAS, the Act shall establish appropriate authorities to achieve the objectives of the Act and matters related thereto.

AND WHEREAS the Act shall be enacted to realize fundamental right guaranteed under Article 21 and to give effect to provisions of the Directive Principles of State Policy under Articles 39(b), 48 A, 49 and the Fundamental Duties enshrined under Article 51A (f) and (g) of the Constitution of India.

AND WHEREAS, the Act shall be enacted by Parliament by invoking legislative power under Article 246 read with Entry 56 of the Union List of the Constitution of India.

Chapter I

Preliminary

1. Short Title, Extent and Commencement

- 1) The Act may be called The National River Ganga Basin Management Act, 2012.
- 2) It shall extend to the whole National River Ganga Basin.
- 3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

2. Definitions

In this Act, unless the context otherwise requires –

- 1) “Active Flood Plain” is the area on the two sides of a river that gets inundated by a flood having a mean recurrence interval of 2.33 years;
- 2) Afforestation means plantation of trees to restore or re-establish the forest cover;
- 3) Authority means any authority, board, corporation, council, department, institute, university or any other body corporate, established by or under any Central, State or Provincial Act in force in the territory of India and includes,
 - a. The Central Government,
 - b. The State Governments,
 - c. A Department of the Government,
 - d. Local authorities;
- 4) “AviralDhara” (in a river or stream) means continuity of flow in both time and space, including connectivity of flow throughout the river;
- 5) Basin includes land, water, vegetation and other natural resources on a catchment basis;
- 6) “Basin” means the entire catchment (of a water body or water course) including the soil, water, vegetation and other natural resources in the area;
- 7) “Catchment” (or “Catchment Area”, or “Watershed”, or “Drainage Basin”) is the entire land area whose runoff from rain, snow or ice drains into a water body or a water course (before the water course joins another river or discharges into a water body);
- 8) Class I town means a town whose population is greater than 100,000;

- 9) Class II town means a town whose population is greater than 50,000 and less than 100,000;
- 10) “Commercial fishing” means large-scale fishing for commercial purposes by nets, cyanide poisoning, or other modern fishing gear or methods.
- 11) Commission means National River Ganga Basin Management Commission;
- 12) “Connectivity” (of a river) means continuity of flow in the three directions, viz. longitudinal connectivity (along the length of the river), lateral connectivity (across the width of river), and vertical connectivity (below the water surface in vertical direction).
- 13) “Deforestation” means removal or reduction of forest cover, especially when caused by anthropogenic activities;
- 14) “Degraded Forest” means a forest having loss or reduction of native forest cover and/ or vegetation density;
- 15) “Direct Injection” (of water) means injection or introduction (of water) directly into subsurface waters through natural or artificial crevices, faults, channels or conduits without the natural passage through porous soil strata;
- 16) “Ecological Park” is a protected area for conservation of native and endangered species;
- 17) “Ecology” is the totality of relations between organisms and their environment. It includes the composition, distribution, amount, number and changing states of organisms within and among ecosystems;
- 18) “Ecosystem” is a community of organisms and their physical environment, considered to function together as a unit, and characterized by a flow of energy that leads to trophic (or nutritional) structure and material cycling;
- 19) “E-Flows” means Environmental Flows;
- 20) “Embankment” is a raised wall of earth, stone or other material to hold back water within a water body or water course; it includes levees constructed on either side of a river as a flood protection measure;
- 21) “Engineered Diversion” means a structure or device constructed or installed to transfer the river water into a canal or other engineering structure;
- 22) “Environmental Flows” are the regime of flows including sediments and other natural constituents required to maintain the ecological integrity of a river and the goods and services provided by it, computed by Building (Bigger) Block Method;
- 23) “Flood” means the overflowing of water from a water course or water body that inundates normally dry land;

- 24) "Flood Plain" is the land area susceptible to inundation by flood waters;
- 25) "Flood Routing Channel" is a channel designed to carry the excess water of a water course during high flows;
- 26) "Geologic Entity" is an entity formed by ancient earth processes over geologic ages;
- 27) "Ghat" is a sloping or cliffed part of a riverbank, often with artificially constructed steps, used for providing easy human access to river water;
- 28) "Ground Water Recharge" is replenishment (in part or wholly) of water depleted from ground water reservoirs;
- 29) Hazardous Solid Waste (HSW) includes as provided in the Act;
- 30) "Hydrological Cycle" is the natural cycle of change through which water moves on earth;
- 31) Industrial Effluents includes as it is mentioned in the Act;
- 32) Kharif Canals means Irrigation canals used for crops grown in rainy season;
- 33) Landfills means a place used for disposal of solid waste on land;
- 34) Large Scale Industries provided in the Act;
- 35) Medium Scale Industries provided in the Act;
- 36) Municipal Solid Waste provided in the Act;
- 37) "National River Ganga" is the entire length of six head-streams in the state of Uttarakhand namely, Rivers Alaknanda, Dhaul Ganga, Nandakini, Pinder, Mandakani and Bhagirathi starting from their originating glaciers up to their respective confluences at Vishnu Prayag, Nand Prayag, Karn Prayag, Rudra Prayag and Dev Prayag as also the main stem of the river thereafter up to Ganga Sagar including Prayag Raj;
- 38) "NirmalDhara" or "Un-polluted Flow" means flow in a river or stream that is not significantly polluted by anthropogenic activities;
- 39) "Paleo-Channel" is the remnant of an extinct river or stream that got filled with sediments deposited in later periods;
- 40) "person" includes—
 - a. an individual;
 - b. a Hindu undivided family;
 - c. a company;
 - d. a firm;
 - e. an enterprise;
 - f. an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

- g. any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);
 - h. any body corporate incorporated by or under the laws of a country outside India;
 - i. a co-operative society registered under any law relating to cooperative societies;
 - j. a local authority;
 - k. every artificial juridical person, not falling within any of the preceding sub-clauses;
- 41) Ritual Bathing means taking dip in the water for religious or spiritual purposes;
 - 42) River Bed Farming includes seasonal agriculture/farming on the river bed during low flows when the bed is exposed;
 - 43) Rivers in National River Ganga Basin include, but is not restricted to, all major and minor tributaries of the National River Ganga within the basin;
 - 44) River Bank means the land at the side of a river which retains the river in its natural channel, when there is the greatest flow of water;
 - 45) River Bed means dried portion of the river, the place where the river run its course; when it fills with water.
 - 46) River Port means a place on a waterway with facilities for loading and unloading ships;
 - 47) River System means network of rivers rather than a single river;
 - 48) Rivulets includes very small tributaries of a major river;
 - 49) Sand Mining means large scale removal of river sand from the dried channel belt or a part of it;
 - 50) Sewage means as provided in the Act;
 - 51) Small Scale Industries as provided in the Act;
 - 52) Solid Waste as provided in the Act;
 - 53) Sludge as provided in the Act;
 - 54) Tribunal means the National River Ganga Basin Management Tribunal;
 - 55) "Water Body" (or "Surface Water Body") is a depression on land or a lowland area that usually holds water or remains saturated through most of the year, such as a lake, tank, pond, marsh or swamp;
 - 56) "Water Course" (or "Surface Water Course") is an overland channel (natural or manmade) through which water flows, such as a river, stream, rivulet (or "nala") or canal;
 - 57) Water Recharge Structures includes arrangements made for enhancement of sub surface flow and storages of water;

Chapter II

Duty to Ensure Respect and Dignity of National River Ganga

3. Respect and Dignity

Every person shall ensure utmost respect and dignity for the National River Ganga and desist from activities prejudicial to her interests.

4. Duty of State and Citizen

It shall be the duty of the State and every other person to ensure the protection, preservation, conservation and maintenance of wholesomeness of National River Ganga.

Chapter III

Usage of Water in National River Ganga Basin

5. Usage of water shall be determined in accordance with the following

- 1) The usage of water shall be posterior to nature and ecology.
- 2) The usage shall have sequential priority from 'water for life' to 'livelihoods' to 'developmental activities'.
- 3) There shall be institutional arrangements for usage of water based on principles of equity, resource-conservation, protection of water resources, and harmonization of water use.

Chapter IV

Prohibition and Restriction of Activities

6. Prohibition of Activities relating to the National River Ganga Basin

Notwithstanding anything contained in any law whatsoever, no person or authority shall indulge in any activity relating to any of the following:

- 1) engineered diversion and/or storage of water in any river unless E-Flows are maintained in the immediate downstream of the diversion/storage; or
- 2) discontinuity in the flow due to engineered diversion/storage in any river; or
- 3) discharge of sewage (either treated or untreated) from Class I towns, either directly or indirectly, into any river; or
- 4) discharge of industrial effluents (either treated or untreated) from any large, medium or cluster of small industries, either directly or indirectly, into any river; or
- 5) direct injection of sewage and industrial effluents (either treated or untreated) into the subsurface; or
- 6) disposal of un-burnt and partially burnt corpses and animal carcasses in any river or riverbank; or
- 7) open defecation and dumping of municipal/industrial solid wastes or sludge in any river or its active flood plain; or
- 8) setting up of or continuation in dwellings or other encroachments in the river banks or its active river flood plains; or
- 9) construction of new permanent structures for residential, commercial and industrial purposes in the active flood plain of any river;
Provided that construction of bridges and associated roads, jetties/ghats/ports and hydraulic structures for storage/ diversion/ control/ channelization of river waters shall not be thereby prohibited.
- 10) any other like activities as may be prescribed by the commission.

7. Restriction of Activities relating to the National River Ganga Basin

No person shall indulge in any of the following activities except in accordance with the rules and regulations as may be laid down in this regard from time to time.

- 1) discharge of sewage (either treated or untreated) from Class II town and smaller towns and villages, either directly or indirectly, into any river; or
- 2) disposal of sludge derived through treatment of sewage and industrial effluents except in secure landfills/hazardous waste sites; or
- 3) discharge of industrial effluents (either treated or untreated) from small scale industry into any river; or
- 4) disposal and/or discharge of mining and construction debris in any river's flood plain, river bank or the river itself; or

- 5) construction of bridges and associated roads, jetties, ghats, ports and permanent hydraulic structures for storage/diversion/control/channelization of waters in any rivers; or
- 6) withdrawal of ground water by electric/diesel operated shallow and deep tube wells; or
- 7) sand mining, stone crushing, sediment removal and mining of other minerals from the river bed of any river; or
- 8) dredging or any other excavation activity on river bed for any purposes threatening the balance of the natural environment; or
- 9) river bed farming and agricultural activities in the active flood plain of any river; or
- 10) commercial fishing or aqua culture in any river; or
- 11) ritual immersion of idols, and floral and other offerings in any river; or
- 12) wallowing of animals, washing of clothes, vehicles, etc., in any river; or
- 13) deforestation of hill slopes and notified forest and other sensitive areas; or
- 14) hazardous or harmful emissions into the atmosphere that can affect terrestrial waters directly or indirectly in any river; or
- 15) use of chemical fertilizers and pesticides in agriculture, horticulture, aquaculture, animal husbandry, forestry, etc. in any river; or
- 16) any activity that may lead to geologically disruptive phenomena such as heightened seismic activity, ground subsidence, and leaching or erosion of contaminants into water bodies; or
- 17) cattle grazing on erodible hill slopes and in over-grazed areas; or
- 18) any other like activities as may be prescribed by the commission.

Chapter V

Conservation, Development of National River Ganga Basin

8. Conservation and Development

- 1) The appropriate authority shall take all measures necessary for the conservation and development of the National River Ganga Basin.
- 2) Such conservation shall include measures relating to the following:
 - a. ensuring that E-Flows are maintained in all rivers at different locations and in different seasons;
 - b. protecting both geology and ecology in the river basin;

- c. using of floodplains in environmentally safe manner, and after ensuring Environmental Impact Assessment for approval of flood plains projects;
- d. ensuring both short-term and long-term measures for conservation and improvement of natural resources in National River Ganga Basin;
Explanation - The term “appropriate authority” in this section and the subsequent one shall be taken to include the Central Government or State Government or such Local authorities responsible for implementation as the context indicates;
- e. monitoring, review and dissemination of the National River Ganga Basin’s environmental status in the public domain.

9. Promotion of Activities relating to the National River Ganga Basin

The appropriate authority shall adopt special measures to promote the following activities in the National River Ganga Basin:

- 1) reuse and recycle of treated domestic and industrial sewage and use of products derived from sewage sludge, with mechanism for commercial use/ reuse where feasible;
- 2) measures including construction of sewer lines, provision of sanitation services, construction of wastewater treatment plants for municipal and industrial effluents, construction of secure solid waste landfills, hazardous waste landfills and other related facilities in the River Basin;
- 3) facilities for environmentally safe cremation/burial of corpses and measures for disposal of animal carcasses;
- 4) ground water recharge with unpolluted water (including use of kharif canals, paleo-channels, nalas, check dams, unlined ponds and lagoons, etc.) to increase ground water levels and enhance river base flows;
- 5) higher efficiencies in irrigation water use (through appropriate irrigation techniques, rationalization of cropping patterns, recycling of return flows, etc.) for agriculture, horticulture, fodder cultivation, etc;
- 6) higher efficiencies in institutional, commercial, industrial, domestic, municipal and community water uses through minimization of losses, wastage control and provision of adequate water treatment facilities;
- 7) afforestation and/or grassland development in degraded forest lands, wastelands and denuded hill slopes (for control of surface runoff and erosion, and for enhancing groundwater recharge);
- 8) activities related to flood control, including development of flood routing channels, embankments and other methods for controlling sediment flows and distribution;

- 9) protection of breeding areas and natural habitats of indigenous and migratory species of fishes, birds, reptiles, amphibians and mammals, and the prevention of the spread of exotic species;
- 10) eco-friendly tourism, pilgrimage, recreational and sporting activities in all rivers and riverbanks;
- 11) use of the riverbank and active flood plains of rivers for development of water-recharge structures and ecological parks;
- 12) use of bio-fertilizers and bio-pesticides (in place of chemical fertilizers and pesticides) in agriculture, horticulture, aquaculture, forestry, etc., to protect groundwater from agricultural pollutants;
- 13) any other like activities as may be prescribed by the commission.

Chapter VI

Duties of Central and State Governments

10. Duties of Central and State Governments

- 1) It shall be the duty of the Central Government to constitute the National River Ganga Basin Management Commission to carry out the provisions of the Act.
- 2) The Central and State Governments shall render all assistance and cooperation necessary for the effective implementation of the provisions of the Act.
- 3) The Central Government shall, in consultation with and concurrence of the Commission, make rules and regulations necessary for the effective implementation of the provisions of the Act.
- 4) In accordance with the directions of the Commission, the Central and the State governments, as the case may be, shall take necessary measures towards prohibition and restriction of activities in any river of the National River Ganga Basin as well as conservation and development of the basin.

Chapter VII

National River Ganga Basin Management Commission Constitution, Power and Functions

11. Establishment of Commission

- 1) With effect from such date as the Central Government may by notification decide, there shall be established for the purposes of this Act, a Commission to be called the “National River Ganga Basin Management Commission” hereinafter referred to as the Commission.
- 2) The Commission shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable and to contract and shall, by the same name, sue of be sued.
- 3) The Head Office of the Commission shall be at such place as the Central Government may decide from time to time.
- 4) The Commission may establish offices at other places in India.

12. Composition of Commission

- 1) The Commission shall consist of the following Members, namely:
 - a. A Chairperson,
 - b. A Retired or Sitting Judge of the High Court,
 - c. Five Independent Members of Civil Society/Academia/Experts having expertise in requisite areas of river basin management.
- 2) The Chairperson shall be the Chief executive of the Commission and shall exercise such powers and perform such duties, as may be prescribed and he shall be responsible for the business of the Commission.
- 3) The Chairperson and other members of the Commission shall be persons of ability, integrity and standing and who have special knowledge of and such professional experience of not less than 15 years in scientific, technical, socio-economic, legal or other pertinent areas of river basin management.

13. Selection of Chairperson and other members of the Commission

- 1) The Chairperson and Independent Members shall be appointed by the Central Government from a panel of names recommended by a selection committee consisting of
 - a. The Prime Minister of India : Chairperson
 - b. Leader of Opposition : Member
 - c. Cabinet Secretary, Central Government : Member Secretary
- 2) The Retired or Sitting Judge of the High Court shall be selected by the Chief Justice of India.
- 3) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed by the Central Government by way of notification.
- 4) The Chairperson and every other member shall, before entering upon his office, make and subscribe to an oath of office for secrecy and maintain integrity in such form and manner as may be prescribed.

14. Term of Office of Chairpersons and Other Members

The term of office of the members shall be as follows:

- 1) The Chairperson and every other member shall hold office as such for a term of five years from the date on which he enters upon his office but shall not be eligible for reappointment.
Provided that the Chairperson and other members shall not hold office as such after he has attained the age of 70 years.
- 2) A vacancy caused by the resignation or the removal of the Chairperson or any other member or by death or otherwise shall be filled by fresh appointment in accordance with the previous provisions.
- 3) The Chairperson and every other member shall, before entering upon his Office, make and subscribe to an oath of office and of secrecy in such form, manner and before such Commission as may be prescribed. In the event of the occurrence of a vacancy in the Office of the Chairperson by reason of his death, resignation or otherwise, the senior-most member shall act as the Chairperson till the new Chairperson enters upon his Office.
- 4) When the Chairperson is unable to discharge his function owing to absence, illness or any other cause, the senior-most member shall discharge the routine functions of the Chairperson till the date on which the Chairperson resumes his Office.

- 5) No person shall be appointed as Chairperson or member of the Commission who shall have direct or indirect interest in any business or commercial activity related to the River Basin.

15. Resignation, Removal and Suspension of Chairperson and other members

- 1) The Chairperson or any other member may, by notice in writing, address to the Central Government resign from Office.

Provided that the Chairperson or any other member shall, unless he is permitted by the Central Government to relinquish his Office sooner, continue to hold Office until the expiry or three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his Office or until the expiry of his term of Office, whichever is the earliest.

- 2) Notwithstanding anything contained above, the Central Government may, by order, remove the Chairperson or any other member from his Office if such Chairperson or Members, as the case may be:
 - a. Is or at any time has been, adjudged as an insolvent; or
 - b. Has engaged at any time, during his term of office, in any paid employment; or
 - c. Has been convicted of an offence which, in the opinion of the Central Government involved moral turpitude; or
 - d. Has acquired such financial or other interest as his likely to affect prejudicially his functions of a member; or so abused his position as to render his continuance in office prejudicial to public interest; or
 - e. Has become physically or mentally incapable as such.
- 3) Notwithstanding anything contained herein before, no member shall be removed from his office unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has on an enquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Chairperson or the members, ought on such ground or grounds to be removed.

16. Restrictions on Employment of Members in certain cases

The Chairperson and every other member shall not, for a period of two years from the date which he ceases to hold Office, accept any employment in, or be connected with the Management or Administration of, any enterprise which has been a party to a proceeding under the Act or associate in any capacity or establish any NGO in related field;

Provided that nothing in the section shall apply to any employment under the Central Government or a State Government or Local Commission or in any statutory Commission or any corporation established by or under any Central, State or Provincial Act or a Government company as define in Section 617 of the Companies Act 1956(1 of 1956).

17. Salary and Allowances and other terms and conditions of service of Chairperson and other members

- 1) The salary and other terms and conditions of service, of the Chairperson and other members including travelling expenses, house rent allowance and conveyance facilities, sumptuary allowance and medical facilities shall be such as may be prescribed.
- 2) The salary allowances and other terms and condition of service of the Chairperson or any member shall not vary to his disadvantage after appointment.

18. Procedure for Transaction of Business

- 1) The Commission shall meet regularly at its Office at such time as the Chairperson thinks fit, but four months shall not intervene between its last and next meeting.
- 2) All decisions shall be taken by majority;
Provided that in the case of equality of votes, the Chairperson or in his absence the person presiding, shall have to exercise casting vote;
- 3) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including the quorum at such meeting, as may be prescribed by the Central Government under the Act;
- 4) All decisions of the Commission shall be authenticated by the Chairperson or any other officer duly authorised in this behalf.

19. Duties, Powers and Functions of the Commission

- 1) The powers and function of the Commission shall relate to the following:
 - a. To formulate strategies, plans, programmes, policies and guidelines for the due discharge of functions in furtherance of the object of the Act;
 - b. To review the working of the Commission and prepare Annual Report;
 - c. To review and monitor the working of the Wings under the Act;
 - d. To coordinate and strengthen the efforts of the Central and State Governments for conservation and development of the National River

- Ganga Basin, and prohibition, restriction and promotion of activities in National River Ganga Basin in consonance with the object of the Act;
- e. Issue Directions to the Central and State government;
 - f. To inquire and investigate into alleged contraventions of provisions of the Act;
 - g. To direct such investigations and inquiries as may be necessary from time to time;
 - h. To pass such orders or issue such directions as it may deem fit.
- 2) It shall be the duty of the Commission to take necessary steps for the elimination of all practices prejudicial to the interests of the National River Ganga Basin and promote the conservation and development of the Basin in consonance with the object of the Act.

20. Power of Superintendence

The Chairperson of Commission shall have the powers of general superintendence direction and control in respect of all matters of the Commission.

Provided that the Chairperson may, for the internal conduct of business of the Commission, delegate such powers relating to administrative matters to any member of the Commission, including the power to monitor the working of the Wings, established under the Act, and such member shall coordinate with the Director, appointed hereinafter, with regard to implementation of the policies of the Commission.

Provided that the Investigation Wing shall, at all times be monitored by the Retired or Sitting Judge of the High Court as specified under Section 12 of the Act.

21. General Administration and Finance Division

- 1) There shall be a General Administration and Finance Division under the control of the Chairperson of the Commission.
- 2) Such division shall
 - a) Undertake all activities pertaining to the internal management of the Commission;
 - b) Create and maintain the National River Ganga Basin Management Fund to be generated from the deposit of damages awarded by the Commission and Tribunal from time to time;
 - c) Maintain proper accounts and relevant records;
 - d) Prepare annual reports and statement of accounts;
 - e) Audit Accounts as may be required by the Central Government.

22. Constitution of Wings

- 1) The Commission shall constitute the following Wings for the efficient discharge of its duties and functions under the Act:
 - a. Information and Communication wing;
 - b. Environmental Monitoring and Impact Assessment Wing;
 - c. Investigation Wing;
 - d. Research and Development Wing;
 - e. Policy, Planning and Advocacy Wing.
- 2) The Commission may constitute such other regional or specialised units under each of the wings, and at such places, as may be necessary from time to time.

23. Composition of Wings

- 1) Each wing shall consist of the following:
 - a. The Director;
 - b. Such other Officers and Employees as may be necessary for the efficient performance of the functions under the Act;
- 2) The Wing shall be headed by the Director who shall be assisted by Additional, Joint, Deputy and Assistant Directors and such other officers or employees as may be decided by the Commission;
- 3) The Director shall be of the level of Joint Secretary or equivalent of the Central Government;
- 4) Regional units/branches shall be headed by the Joint Director and he shall report to the Director on all matters relating to the unit/branch.
- 5) The Director and other officials shall be whole time members.

24. Powers and Functions of Wings

The wings shall discharge the necessary powers, functions and responsibilities in furtherance of its specific subject matter.

- 1) The Investigation Wing shall investigate matters relating to:
 - a) Non-implementation of appropriate measures relating to prohibition, restriction, conservation and promotion activities;
 - b) Non-compliance of policy decisions and guidelines in furtherance of integrated River Basin Management;
 - c) Continuance of existing practices in contravention of the provisions of the Act; and
 - d) Such other matters as the Commission may direct from time to time.

- 2) The Research and Development Wing shall
 - a) Identify research needs of National River Ganga Basin;
 - b) Undertake and/or outsource need based specific research;
 - c) Conduct economic, social and cultural analysis on National River Ganga Basin;
 - d) Prescribe scientific details on measures relating to prohibition, restriction, conservation and promotion activities on National River Ganga Basin, as may be necessary from time to time;
 - e) Provide technical know-how related to building of infrastructure on National River Ganga Basin;
 - f) Such other matters as the Commission may direct from time to time.

- 3) The Environmental Monitoring and Impact Assessment Wing shall
 - a) Conduct regular and random field measurement of environment related data on river basin;
 - b) Monitor developmental and infrastructure projects on the river basin approved by the Government;
 - c) Coordinate developmental projects and anthropogenic activities on National River Ganga Basin;
 - d) Conduct impact assessment of existing practices, activities and infrastructure on National River Ganga Basin;
 - e) Such other matters as the Commission may direct from time to time.

- 4) The Information and Communication wing
 - a) Procure all types of data relating to scientific, technological, economic, social, cultural and such other forms as the commission may determine time to time on river basin;
 - b) Preprocess all data collected referred to in clause (a);
 - c) Compile data and reports referred to in clause (a);
 - d) Store the data and reports in easily retrievable system;
 - e) Provide public access to all such data;
 - f) Such other matters as the Commission may deem fit.

- 5) The Policy, Planning and Advocacy Wing shall
 - a) Periodically review and frame the environmental strategies, plans, programmes, policies and guidelines on National River Ganga Basin;
 - b) Formulate good governance guidelines;
 - c) Promote awareness of issues pertaining to National River Ganga Basin;
 - d) Conduct advanced interactive Programmes, including Seminars, Workshops and Training of stakeholders;
 - e) Conduct special campaigns to sensitize and motivate people;

- f) Prepare educational material; and
- g) Such other matters as the Commission may deem fit.

25. Appointment and service conditions of Director, officers, inter alia of the Commission

- 1) The Commission shall appoint the Director, Additional Director, Joint Director, Deputy Director and Assistant Director, officers and other employees required to assist the Commission in the discharge of its functions.
- 2) The terms and conditions of the service of the Director, Additional Director, Joint Director, Deputy Director and Assistant Director, officers and other employees of the Commission shall be made by the Chairperson in such manner as may be prescribed.
- 3) The officers and other employees of the Commission shall discharge their functions under the general superintendence of the Chairperson.
- 4) The salaries and allowances and conditions of service of the officers and other employees of the Commission shall be such as may be prescribed.

26. Power and Functions of Director

The Director shall discharge the following:

- a) Be responsible for the overall working of the Wing.
- b) Control and Superintend the administration of the Wing
- c) Implement the policies, programs, etc. of the Commission, as may be decided, from time to time.
- d) Report to the Commission, on regular basis, about the activities of the Wing.
- e) Coordinate with the individual member of the Commission, where so appointed under Section 20, the working of the Wing.
- f) Prepare Internal Report annually
- g) Such other matters as may be decided by the Commission from time to time.

Powers of Inquiry and Investigation

27. Procedure for Inquiry and Investigation

- 1) On receipt of a complaint by any person or a reference from an Authority or on its own knowledge or otherwise, if the Commission is of the opinion that there exists a prima facie case, it shall direct the Director, Investigation to cause an investigation to be made into the matter.

- 2) Where however the Commission is of the opinion that there exists no prima facie case, it shall close the matter forthwith and pass such orders as it deems fit and send a copy of its order to the Authority or the person concerned, as the case may be.
- 3) The Director shall, on receipt of direction, submit a report on his findings within such period as may be specified by the Commission.
- 4) The Commission may forward a copy of the report to the parties concerned; Provided that in case the investigation is caused to be made based on a reference from any authority, the Commission shall forward a copy of the report to the authority as the case may be.
- 5) If the report of the Director recommends that there is no contravention of the provisions of this Act, the Commission shall invite objections and suggestions from the Authority or the person concerned or any other person, as the case may be.
- 6) If, after consideration of the objections or suggestions, the Commission agrees with the recommendation of the Director, it shall close the matter forthwith and pass such orders as it deems fit and communicate its order to the Authority or the persons concerned, as the case may be.
- 7) If, after consideration of the objections or suggestions referred to above the Commission is of the opinion that further investigation is called for, it may direct such further investigation in the matter by the Director or itself proceed with further inquiry in the matter in accordance with the provisions of the Act.
- 8) On receipt of report of the Director or a further inquiry referred to above, the Commission may close the matter forthwith and pass such orders as he deems fit and communicate its order to the Authority or the persons concerned as the case may be.

28. Power of Commission to Regulate its own Procedure

- 1) The Commission shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of Natural Justice and, subject to the provisions of these Act and of any rules made there under, the Commission shall have powers to regulate its own procedure including the places at which they shall have their sittings, duration of oral hearings when granted, and times of its inquiry.
- 2) The Commission shall have, for the purposes of discharging its functions under these Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit.

- 3) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a civil court for the purposes of disposal of the matters pending before it and shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the code of Criminal procedure 1973 (2 of 1974).
- 4) The Commission may call upon such experts, from the field of Science and Technology, Legal Affairs, Economics, Finance, Socio-Cultural, Faith Leaders as it deems necessary, to assist the Commission in the conduct of any inquiry or proceeding before it.

29. Power of Director, Investigation Wing

- 1) The Director, Investigation shall, when so directed by the Commission, assist the Commission in investigating into any contravention of the provisions of these Act or any rules or regulations made there under.
- 2) The Director shall have all the powers as are conferred upon the Commission herein before stated.
- 3) The Director shall have power to direct every person/company/authority against whom the enquiry/investigation is ordered to afford reasonable facilities for the same.

30. Orders by Commission after Inquiry/ Investigation

Where after inquiry or investigation, the Commission finds that any act in contravention of the provisions of the Act has been established on the part of any person or authority, it may pass all or any of the following orders, namely:

- a. Direct the immediate discontinuance of the act;
- b. Order payment of damages;
- c. Order restitution, restoration and such other remedial measures for the conservation and protection of the National River Ganga Basin as may be necessary in the circumstances;
- d. Pass such other order as it may deem fit.

31. Power to grant interim relief

- 1) Where during an inquiry or investigation before the Commission or under the directions of the Commission, it is proved to the satisfaction of the Commission, by affidavit or otherwise, that an act in contravention of the provisions of the Act has been committed or continue to be committed or that such act is about to be committed, the Commission may, by order, grant

a temporary injunction restraining any party from carrying on such act till the conclusion of the inquiry/investigation or until further orders.

- 2) The provisions of rules 2A to 5 (both inclusive) of Order XXXIX of the first Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply to a temporary injunction issued by the Commission under the Act, as they apply to a temporary injunction issued by a civil court, and any reference in any such rule to a suit shall be construed as a reference to any inquiry/investigation before the Commission.

32. Appeal

Any person or authority aggrieved by any decision or order of the Commission may file an appeal to the National River Ganga Basin Tribunal within sixty days from the date of communication of the decision or order of the Commission;

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

33. Execution of Orders of Commission

- 1) Any order passed by the Commission under this Act shall be enforced and executable by the Commission in the same manner as if it were a decree or order made by Civil Court in a suit pending therein and for that purpose the Commission shall have all the executing powers of a civil court.
- 2) For the sake of expeditious disposal or otherwise the Commission if deems fit, may transmit any order or award or decision made by it to a civil court having local jurisdiction and such civil court shall execute it as a decree by that Court.

34. Penalty for failure to comply with orders of the Commission

Whoever fails to comply with any order made by the Commission, he shall be punishable with imprisonment for a term which may extend to 3 years, or with fine which may extend to ten crore rupees, or with both.

35. Members, Officers, etc. of Commission deemed to be Public Servants

All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

36. Protection of Action taken in good faith

No suit, prosecution or other legal proceedings shall lie against any member, officer or employee of the Commission for anything done or intended to be done in good faith under this Act or rules or regulations made thereunder.

37. Contravention of Order by Companies and Authorities

- 1) Where any contravention under this Act has been committed by a company, every person, who, at the time, the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company itself, shall be deemed to be liable to be proceeded against in accordance with the provisions of the Act.

Provided that nothing contained in this section shall render any such person liable, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of the contravention and the contravention was an Act of God.

- 2) Notwithstanding anything contained above, where any contravention under this Act has been committed with the consent or connivance of or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such person aforesaid shall be deemed to be liable for such contravention and proceeded against.

Explanation: For the above purposes,

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm, means a partner in the firm and proprietor in a proprietorship firm and in case of trust, cooperative and society the person responsible for management of the same.

- 3) Where any contravention under this Act has been committed by an authority, every person, who, at the time, the contravention was committed was in charge of, and was responsible to, for the conduct of the business of the authority, as well as the authority itself, shall be deemed to be liable to be proceeded against in accordance with the provisions of the Act.

Provided that nothing contained in this section shall render any such person liable, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of the contravention and the contravention was an Act of God.

- 4) Notwithstanding anything contained above, where any contravention under this Act has been committed with the consent or connivance of or is attributable to, any neglect on the part of any superintendent, manager, secretary or other officer of the authority, such person aforesaid shall be deemed to be liable for such contravention and proceeded against.

CHAPTER VIII

NATIONAL RIVER GANGA BASIN TRIBUNAL

38. Establishment of Tribunal

- 1) The Central Government shall, by notification, establish an Tribunal to be known as National River Ganga Basin Tribunal:
 - a. to hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under the Act;
 - b. to adjudicate on claim for damages that may arise from the findings of the Commission, or orders for the recovery of damages under this Act.
- 2) The Headquarter of the Tribunal shall be at such place as the Headquarter of the Commission.

39. Jurisdiction of the Tribunal

Any person or authority, aggrieved by any direction, order or decision passed by the Commission may prefer an appeal to the Tribunal.

40. Limitation

- 1) Every appeal under sub-section (2) shall be filed within a period of sixty days from the date on which a copy of the direction or decision or order made by the Commission is received by the authority or person referred to and it shall be in such form and be accompanied by such fee as may be prescribed within the rules so framed by the Commission;
- 2) The Tribunal may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

41. Procedure of the Tribunal

- 1) On receipt of an appeal, the Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the direction, decision or order appealed against.

- 2) The Tribunal shall send a copy of every order made by it to the Commission and the parties to the appeal.
- 3) The appeal filed before the Tribunal shall be dealt with by it as expeditiously as possible and endeavor shall be made by it to dispose of the appeal within six months from the date of receipt of the appeal and beyond that period on recording the reasons.
- 4) No appeal under clause (1) shall lie unless the memorandum of appeal is certified with the copy of the order, direction or decision passed by the Commission and with the grounds to the effect that the appellant has plausible defense to be protected against such order. However, while admitting the appeal, the Tribunal may direct to deposit a part or whole of the amount so payable under the direction, order or decision appealed against.
- 5) The appellant shall get the deposited amount back, with rate of interest fixed by nationalized bank during that time, in case he/it succeeds in the appeal.

42. Composition of Tribunal

The Tribunal shall consist of a Chairperson and at least one Judicial Member and other members to be appointed by the Central Government from the panels of name so recommended by the Selection Committee constituted for that purpose.

43. Qualifications for appointment of Chairperson and Members of Tribunal

- 1) The Chairperson of the Tribunal shall be a person, who is, or has been a Judge of the Supreme Court of India.
- 2) The other members of the Tribunal shall be persons of ability, integrity and standing having special knowledge of, and professional experience of not less than twenty years in science and technology, environmental matters, law and policy, public affairs or in any other matter which in the opinion of the Central Government, may be useful to the Tribunal.

44. Selection Committee

- 1) The Chairperson and Members of the Tribunal shall be appointed by the Central Government from a panel of names recommended by a Selection Committee comprising of:
 - a. the Chief Justice of India, Chairperson;
 - b. the Cabinet Secretary, Central Government, Member Secretary
 - c. the Chairperson, Law Commission of India, Member

- d. the Director of any National Institute of importance so nominated,
Member
- 2) The terms of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.

45. Term of office of Chairperson and Members of Tribunal

The Chairperson or a member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, and shall be eligible for re-appointment only for a period of two years and not afterwards;

Provided that no Chairperson or other member of the Tribunal shall hold office as such after he has attained,

- 1) in the case of the Chairperson, the age of seventy years;
- 2) in the case of any other member of the Tribunal, the age of sixty-seven years.

46. Terms and conditions of service of Chairperson and Members of Tribunal

- 1) The salaries and allowances and other terms and conditions of service including the conditions of removal of the Chairperson and other members of the Tribunal shall be such as may be prescribed by the rules so notified by the Central Government.
- 2) The salaries, allowances and other terms and conditions of service of the Chairperson and other members of the Tribunal shall not be varied to their disadvantage after their appointment.

47. Vacancies

- 1) If, for any reason other than temporary absence, any vacancy occurs in the office of the Chairperson of the Tribunal, the senior most Member shall act as Chairperson until another person is so appointed by the Central Government in the above stated manner to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled by the Tribunal with that new combination and there shall be no irregularity of law in disposal of such matter pending before the Tribunal.
- 2) When the Chairperson of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most member or, as the case may be, such one of the Members of the Tribunal, as the Central Government may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

48. Resignation of Chairperson and Members of Tribunal

The Chairperson or a member of the Tribunal may, by notice in writing under his hand addressed to the Central Government, seek resignation from his office;

Provided that the Chairperson or a member of the Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice and until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

49. Removal and suspension of Chairperson and Members of Tribunal

- 1) The Central Government may, in consultation with the Chief Justice of India, remove from office the Chairperson or any other member of the Tribunal, who;
 - a. has been adjudged an insolvent; or
 - b. has engaged at any time, during his term of office, in any paid employment; or
 - c. has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
 - d. has become physically or mentally incapable of acting as such Chairperson or other Member of the Tribunal; or
 - e. has acquired such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member of the Tribunal; or
 - f. has so abused his position as to render his continuance in office prejudicial to the public interest.
- 2) Notwithstanding anything contained above, no Chairperson or a Member of the Tribunal shall not be removed from his office on the ground specified in clause (e) or clause (f) of sub-section (1) except by an order made by the Central Government after an inquiry made in this behalf by a Judge of the Supreme Court in which such Chairperson or member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

50. Restriction on employment of Chairperson and other Members of the Tribunal

The Chairperson and other members of the Tribunal shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a

party to a proceeding before the Tribunal under this Act, nor shall they associate or personally establish any NGO in related field.

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or Local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

51. Staff of Tribunal

- 1) The Central Government shall frame the rules by way of Notification, in consultation with the Chairperson of the Tribunal, for providing the procedure of appointment of such officers and other employees as it may think fit.
- 2) The salaries, allowances and conditions of service, including tenure and terms of removal, of the officers and other employees of the Tribunal shall be such as may be prescribed.
- 3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence and control of the Chairperson of the Tribunal.

52. Procedures and Powers of Tribunal

- 1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of the Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the places at which they shall have their sittings.
- 2) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:
 - a. summoning and enforcing the attendance of any person and examining him on oath;
 - b. requiring the discovery and production of documents;
 - c. receiving evidence on affidavit;
 - d. subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
 - e. issuing summons for the examination of witnesses or documents;
 - f. reviewing its decisions;
 - g. dismissing a representation for default or deciding it *ex parte*;

- h. setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*;
 - i. any other matter which may be prescribed.
- 3) Every proceeding before the Tribunal shall be deemed to be judicial proceeding within the meaning of Sections 193 and 228, and for the purposes of Section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a Civil Court for the purposes of Section 195 (2 of 1974) and Chapter XXVI of the Code of Criminal Procedure, 1973.

53. Execution of Orders of Tribunal

- 1) Every order made by the Tribunal shall be enforced by it in the same manner as if it were a Court of appeal, and it shall be lawful for the Tribunal to send, in case of its inability to execute such order, to the court within the local limits of whose jurisdiction:
- a. in the case of an order against a company, the registered office of the company is situated; or
 - b. in the case of an order against any other person, place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated.
- 2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order made by it to a Court (civil or criminal, as the case may be) having local jurisdiction and such Court shall execute the order as if it were the orders passed by that court.

54. Saving of inherent Powers of the Tribunal

Notwithstanding anything contained in this Act or any other provisions of any enactment in force, nothing shall be deemed to limit or affect the inherent powers of the Tribunal as of the powers of any High Court of India, to make such orders as may be necessary to give effect to any order passed under this Act or to prevent abuse of the process of the Tribunal or otherwise, to secure the ends of justice, needed to impart justice inconsonance of object and reasons and effect to the enactment of the Act.

55. Suo-moto Powers of the Tribunal

Notwithstanding anything contained in this Act or any other provisions of any enactment in force, nothing shall be deemed to limit or affect the Suo-moto powers of the Tribunal as of the powers of any High Court of India or Supreme Court, to make such orders on its own motion if the Tribunal feels in rarest of rare circumstances and on taking cognizance of the facts to be taken by the Tribunal in the interest or relating to the National River Ganga, as may be necessary to give effect to any order passed under

this Act or to prevent abuse of the process of the Tribunal or otherwise, to secure the ends of justice, needed to impart by the Tribunal.

56. Power to Punish for Contempt

The Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971) shall have effect subject to modifications that:

- 1) the reference therein to a High Court shall be construed as including a reference to the Tribunal;
- 2) the references to the Advocate-General in Section 15 of the said Act shall be construed as a reference to such Law Officer as the Central Government may, by notification, specify in this behalf.

57. Contravention of Order of the Tribunal

Without prejudice to the Act, if any person or authority contravenes, any Order of the Tribunal, he/it shall be liable for a damages not less than fifty crore or forfeiture of property or imprisonment for a term upto ten years or with both.

58. Vacancy in Tribunal not to invalidate acts or proceedings

No act or proceeding of the Tribunal shall be questioned or shall be invalid merely on the ground of existence of any vacancy or defect in the constitution of the Tribunal.

59. Right to Legal Representation

- 1) A person or authority preferring an appeal to the Tribunal may either appear in person or authorize one or more legal practitioners or any of its officers to present his or its case before the Tribunal.
- 2) The Commission may authorize one or more legal practitioners or any of its officers to act as presenting officers and every person so authorized may present the case with respect to any appeal before the Tribunal.

60. Appeal to Supreme Court

Any person aggrieved by any decision, direction or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the decision, direction or order of the Tribunal, to him, on any one or more of the grounds specified in Section 100 of the Code of Civil Procedure, 1908.

CHAPTER IX MISCELLANEOUS PROVISIONS

61. Power of the Central Government to Make Rules

The Central Government may, by the notification in the Official Gazette, make rules for carrying out the purposes of this Act, however such rules shall be framed only in consultation with the Full House comprising of the Chairman and the Members of the commission and only after confirmation.

62. Bar of Jurisdiction

No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Tribunal constituted under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

63. Overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

64. National River Ganga Basin Management Fund

- 1) Where any amount by way of damages is ordered to be paid under any order made by the Commission or Tribunal, that amount shall be remitted to the National River Ganga Basin Management Fund established under the Act;
- 2) The National River Ganga Basin Management Fund under sub-section (1) shall be utilized by Central Government on the advice and with concurrence of the Commission.
- 3) The National River Ganga Basin Management Fund shall be used for,
 - a. Environmental development and improvement of National River Ganga Basin
 - b. Conduct of research on National River Ganga Basin
 - c. Institution of Award
 - d. Any other purpose as may be identified and advised by the Commission.
- 4) Restitution, Restoration and Rehabilitation of the Basin caused due to Natural calamity or disaster shall be done by Government independent of funds being available from the National River Ganga Basin Management Fund established under the Act.

65. Institution of Award

The Central Government shall institute Monetary Rewards for exceptional contributors including Researchers, Academicians, Institutes, Universities, Centres of Excellence and civil society for conservation, development and improvement of the National River Ganga Basin, in conformity with the Commission's goals and guidelines.