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THE COASTAL AQUACULTURE AUTHORITY ACT, 2005

ACT NO. 24 OF 2005

[23rd June, 2005.]

An Act to provide for the establishment of a Coastal Aquaculture Authority for regulating the activities connected with coastal aquaculture in the coastal areas and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Coastal Aquaculture Authority Act, 2005.

(2) Provisions of section 27 shall come into force at once and the remaining provisions of this Act shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) “Authority” means the Coastal Aquaculture Authority established under sub-section (1) of section 4;

(b) “Chairperson” means the Chairperson of the Authority;

(c) “coastal aquaculture” means culturing, under controlled conditions in ponds, pens, enclosures or otherwise, in coastal areas, of shrimp, prawn, fish or any other aquatic life in saline or brackish water; but does not include fresh water aquaculture;

(d) “coastal area” means the area declared as the Coastal Regulation Zone, for the time being, in the notification of the Government of India in the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) No. S.O. 114(E), dated the 19th February, 1991 and includes such other area as the Central Government may, by notification in the Official Gazette, specify;

(e) “member” means the member of the Authority appointed under sub-section (3) of section 4 and includes the Chairperson and the member-secretary;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “regulations” means the regulations made by the Authority under this Act.

(2) Words and expressions used herein and not defined but defined in the Environment (Protection) Act, 1986 (29 of 1986) shall have the meanings respectively assigned to them in that Act.

CHAPTER II

GENERAL POWERS OF CENTRAL GOVERNMENT

3. Power of Central Government to take measures to protect environment.—The Central Government shall take all such measures as it deems necessary or expedient for regulation of coastal aquaculture by prescribing guidelines, to ensure that coastal aquaculture does not cause any detriment to the coastal environment and the concept of responsible coastal aquaculture contained in such guidelines shall be followed in regulating the coastal aquaculture activities to protect the livelihood of various sections of the people living in the coastal areas.

CHAPTER III

THE COASTAL AQUACULTURE AUTHORITY

4. Establishment of Authority and appointment of Chairperson and members.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act an Authority to be called the Coastal Aquaculture Authority.

¹16th December, 2005, ss. 2 to 26 (both inclusive), *vide* notification No. S.O. 1771(E), dated 16th December, 2005, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

(2) The head office of the Authority shall be at such place as the Central Government may decide.

(3) The Authority shall consist of the following members who shall be appointed by the Central Government, namely:—

(a) the Chairperson who is, or has been, a Judge of a High Court;

(b) one member who is an expert in the field of coastal aquaculture;

(c) one member who is an expert in the field of coastal ecology nominated by the Department of Ocean Development of the Central Government;

(d) one member who is an expert in the field of environment protection or pollution control nominated by the Ministry of Environment and Forests of the Central Government;

(e) one member to represent the Ministry of Agriculture of the Central Government;

(f) one member to represent the Ministry of Commerce of the Central Government;

(g) four members to represent the coastal States on rotation basis;

(h) one member-secretary.

(4) The term of office of the Chairperson and every other member shall be three years.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the members shall be such as may be prescribed.

5. Disqualifications for appointment as member.—A person shall be disqualified for being appointed as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

6. Eligibility of member for reappointment.—Subject to sub-section (5) of section 4, any person ceasing to be a member shall be eligible for reappointment as such member for not more than two consecutive terms.

7. Meetings of Authority.—(1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum thereat) as may be specified by regulations.

(2) If for any reason the Chairperson is unable to attend any meeting of the Authority any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and in the event of an equality of votes, the Chairperson or in his absence the person presiding, shall have and exercise a second or casting vote.

8. Vacancy in Authority not to invalidate proceeding.—No act or proceeding of the Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure adopted by the Authority not affecting the merits of the case.

9. Appointment of officers, consultants and other employees of Authority.—(1) For the purposes of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be specified by the regulations.

(2) The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary on such terms and conditions as may be specified by the regulations.

10. Authentication of orders and other instruments of Authority.—All orders, decisions and other instruments of the Authority shall be authenticated under the signature of the Chairperson or any other member or any officer of the Authority authorised by the Chairperson in this behalf.

CHAPTER IV

POWERS AND FUNCTIONS OF AUTHORITY

11. Functions of Authority.—(1) Subject to any guidelines issued by the Central Government under section 3, the Authority shall exercise the following powers and perform the following functions, namely:—

(a) to make regulations for the construction and operation of aquaculture farms within the coastal areas;

(b) to inspect coastal aquaculture farms with a view to ascertaining their environmental impact caused by coastal aquaculture;

(c) to register coastal aquaculture farms;

(d) to order removal or demolition of any coastal aquaculture farms which is causing pollution after hearing the occupier of the farm; and

(e) to perform such other functions as may be prescribed.

(2) Where the Authority orders removal or demolition of any coastal aquaculture farm under clause (d) of sub-section (1), the workers of the said farm shall be paid such compensation as may be settled between the workers and the management through an authority consisting of one person only to be appointed by the Authority and such authority may exercise such powers of a District Magistrate for such purpose, as may be prescribed.

12. Power to enter.—Subject to any rule made in this behalf, any person generally or specially authorised by the Authority in this behalf, may, wherever it is necessary to do so for any purposes of this Act, at all reasonable times, enter on any coastal aquaculture land, pond, pen or enclosure and—

(a) make any inspection, survey, measurement, valuation or inquiry;

(b) remove or demolish any structure therein; and

(c) do such other acts or things as may be prescribed:

Provided that no such person shall enter on any coastal aquaculture land, pond, pen or enclosure without giving the occupier of such aquaculture land, pond, pen or enclosure at least twenty-four hours' notice in writing of his intention to do so.

13. Registration for coastal aquaculture.—(1) Save as otherwise provided in this section, no person shall carry on, or cause to be carried on, coastal aquaculture in coastal area or traditional coastal aquaculture in the traditional coastal aquaculture farm which lies within the Coastal Regulation Zone referred to in sub-section (9) and is not used for coastal aquaculture purposes on the appointed day unless he has registered his farm with the Authority under sub-section (5) or in pursuance of sub-section (9), as the case may be.

(2) Notwithstanding anything contained in sub-section (1), a person engaged in coastal aquaculture, immediately before the appointed day, may continue to carry on such activity without such registration for a period of three months from that day and if he makes an application for such registration under sub-section (4) within the said period of three months, till the communication to him of the disposing of such application by the Authority.

(3) The registration made under sub-section (5) or in pursuance of sub-section (9)—

(a) shall be valid for a period of five years;

(b) may be renewed from time to time for a like period; and

(c) shall be in such form and shall be subject to such conditions as may be specified by the regulations.

(4) A person who intends to carry on coastal aquaculture shall make an application for registration of his farm before the Authority in such form accompanied with such fees as may be prescribed for the purpose of registration under sub-section (5).

(5) On receipt of an application for registration of a farm under sub-section (4), the Authority shall consider the application in the prescribed manner and after considering the application either register the farm or reject the application:

Provided that the Authority shall not reject the application without recording the reason for such rejection.

(6) The Authority shall, after registering a farm under sub-section (5), issue a certificate of registration in the prescribed form to the person who has made the application for such registration.

(7) In the case of a farm comprising more than two hectares of water spread area, no application for registration to commence any activity connected with coastal aquaculture shall be considered under sub-section (5) unless the Authority, after making such inquiry as it thinks fit, is satisfied that registration of such farm shall not be detrimental to the coastal environment.

(8) Notwithstanding anything contained in this section,—

(a) no coastal aquaculture shall be carried on within two hundred metres from High Tide Lines; and

(b) no coastal aquaculture shall be carried on in creeks, rivers and backwaters within the Coastal Regulation Zone declared for the time being under the Environment (Protection) Act, 1986 (29 of 1986):

Provided that nothing in this sub-section shall apply in the case of a coastal aquaculture farm which is in existence on the appointed day and to the non-commercial and experimental coastal aquaculture farms operated or proposed to be operated by any research institute of the Government or funded by the Government:

Provided further that the Authority may, for the purposes of providing exemption under the first proviso, review from time to time the existence and activities of the coastal aquaculture farms and the provisions of this section shall apply on coastal aquaculture farms in view of such review.

Explanation.— For the purposes of this sub-section, “High Tide Line” means the line on the land up to which the highest water line reaches during the spring tide.

(9) Notwithstanding anything contained in this section, any traditional coastal aquaculture farm which lies within the Coastal Regulation Zone declared by the notification of the Government of India in the Ministry of Environment and Forest (Department of Environment, Forests and Wildlife) No.S.O.114(E), dated the 19th February, 1991 and is not used for coastal aquaculture purposes on the appointed day shall be registered under sub-section (5) by producing before the Authority, by the person who is the owner of such farm, the documentary proof of such ownership failing which such farm shall not be registered under sub-section (5) and if such person after such registration does not utilise such farm, within one year, for coastal aquaculture purposes, the registration shall be cancelled by the Authority.

(10) A person, who intends to renew the registration of a farm made under sub-section (5) or in pursuance of sub-section (9), may make an application within two months before the expiry of such registration to the Authority in the prescribed form accompanied with the prescribed fees and the Authority shall, after receiving such application, renew the registration and for such purpose make an entry with its seal on the registration certificate relating to such form issued under sub-section (6).

(11) The Authority may refuse to renew the registration of a farm under sub-section (10) if the Authority is satisfied that the person to whom such registration is made has failed to utilise such farm for coastal aquaculture purposes or without any reasonable cause has violated any provision of this Act or the rules or regulations made there under or any direction or order made by the Authority in pursuance of section 11:

Provided that such refusal to renew the registration shall not be made without providing such person an opportunity of being heard.

Explanation 1.—For the purposes of this section, “appointed day” means the date of establishment of the Authority.

Explanation 2.—For the removal of doubts, it is hereby declared that the expression “to renew the registration” used in sub-sections (10) and (11) shall be construed to include further renewal of the registration.

14. Punishment for carrying on coastal aquaculture without registration.—If any person carries on coastal aquaculture or traditional coastal aquaculture or causes the coastal aquaculture or traditional coastal aquaculture to be carried on in contravention of sub-section (1) of section 13, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees, or with both.

15. Cognizance of offence.—No court shall take cognizance of an offence under section 14 without a written complaint filed by an officer of the Authority authorised in this behalf by it.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

16. Payment to Authority.—The Central Government may, after due appropriation made by Parliament, by law, in this behalf, pay to the Authority in each financial year such sums as may be considered necessary for the performance of functions of the Authority under this Act.

17. Fund of Authority.—(1) The Authority shall have its own fund and all sums which may, from time to time, be paid to it by the Central Government and all the receipts of the Authority (including any sum which any State Government or any other authority or person may hand over to the Authority) shall be credited to the fund and all payments by the Authority shall be made therefrom.

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Authority.

(3) The Authority may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Authority.

18. Budget.—The Authority shall prepare, in such form and at such time each year as may be prescribed, a budget, in respect of the financial year next ensuing, showing the estimated receipts and expenditure and copies thereof shall be forwarded to the Central Government.

19. Annual report.—The Authority shall prepare once in every calendar year, in such form and at such time as may be prescribed an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

20. Accounts and audit.—(1) The Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(2) The Authority shall, as soon as may be, after closing its annual accounts, prepare a statement of accounts in such form, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General of India, determine.

(3) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI

MISCELLANEOUS

21. Chairperson and other members, officers and other employees of Authority, etc., to be public servants.—The Chairperson and other members and the officers and other employees of the Authority and the authority appointed by the Authority shall be deemed to be public servants within the meaning of section 21 of the India Penal Code (45 of 1860).

22. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson and other members of the Authority or the authority appointed by the Authority or any person authorised by the Authority or any officer authorised by the Chairperson for anything which is in good faith done or intended to be done in pursuance of this act or any rule or regulation or order made thereunder.

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

Provided that no such order shall be made after the expiry of the period of two years from the date of the commencement of this Act.

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

24. Power of Central Government to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this act.

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

(a) the guidelines under section 3;

(b) the salaries and allowances payable to, and the other terms and conditions of service of, the members under sub-section (5) of section 4;

(c) the other functions of the Authority under clause (e) of sub-section (1) of section 11;

(d) the powers of a District Magistrate to be exercised by the authority under sub-section (2) of section 11;

(e) the rules subject to which any person referred to in section 12 may enter upon any coastal aquaculture land, pond, pen or enclosure under that section;

(f) the other acts or things under clause (c) of section 12;

(g) the form of application and the fees to be accompanied therewith under sub-section (4) of section 13;

(h) the manner of considering application under sub-section (5) of section 13;

(i) the form of certificate of registration under sub-section (6) of section 13;

(j) the form of application and the fees to be accompanied therewith under sub-section (10) of section 13;

(k) the form and time of preparing budget under section 18;

(l) the form and time of preparing annual report under section 19;

(m) the books of account and other books to be maintained in relation to the accounts of the Authority and the form and manner of maintaining such books of account and other books under sub-section (1) of section 20;

(n) any other matter which is required to be, or may be, prescribed.

25. Power of Authority to make regulations.—(1) The Authority may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

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

(a) the times and places of the meetings of the Authority and the rules of procedure to be observed in regard to the transaction of business at its meetings (including quorum thereat) under sub-section (1) of section 7;

(b) the terms and conditions of appointment of the officers and other employees under sub-section (1) section 9;

(c) the terms and conditions of appointment of adviser or consultant under sub-section (2) of section 9;

(d) for the construction and operation of coastal aquaculture farms within the coastal areas under clause (a) of sub-section (1) of section 11;

(e) the form and conditions of registration under clause (c) of sub-section (3) of section 13;

(f) generally for better regulation of the coastal aquaculture.

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

27. Validation.—(1) Notwithstanding anything contained in clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) or clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, in the notification of the Government of India in the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) No. S.O.114(E), dated the 19th February, 1991 (hereafter referred to in this section as the said notification), in paragraph 2, after sub-paragraph (xiii), the following sub-paragraph shall be inserted and shall always be deemed to have been inserted with effect from the 19th day of February, 1991, namely:—

“(xiv) nothing contained in this paragraph shall apply to coastal aquaculture.”.

(2) The said notification shall have and shall be deemed always to have effect for all purposes as if the foregoing provisions of this section had been in force at all material times and accordingly notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, no coastal aquaculture carried on or undertaken or purporting to have been carried on or undertaken shall be deemed to be in contravention of the said notification and shall be deemed to be and to have always been for all purposes in accordance with law, as if the foregoing provisions of this section had been in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing provisions, no suit or other proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court of any decree or order directing the removal or closure of any coastal aquaculture farm's activity or demolition of any structure connected thereunder which would not have been so required to be removed, closed or demolished if the foregoing provisions of this section had been in force at all material times.