

Bill No. 46 of 2017

THE INTER-STATE RIVER WATER DISPUTES (AMENDMENT)
BILL, 2017

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further to amend the Inter-State River Water Disputes Act, 1956.

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

1. (1) This Act may be called the Inter-State River Water Disputes (Amendment) Act, 2017. Short title and commencement.

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

33 of 1956. 2. In the Inter-State River Water Disputes Act, 1956 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(i) for clause (a), the following clauses shall be substituted, namely:—

10 ‘(a) “Chairperson” means the Chairperson of the Inter-State River Water Disputes Tribunal referred to in section 4B;

(aa) “existing Tribunal” means a Water Disputes Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017;

(ab) “member” means a member of the Inter-State River Water Disputes Tribunal and includes the Chairperson and Vice-Chairperson; 5

(ac) “notification” means a notification published in the Official Gazette;

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

(ii) for clause (b), the following clauses shall be substituted, namely:—

‘(b) “Tribunal” means the Inter-State River Water Disputes Tribunal established under section 4; 10

(ba) “Vice-Chairperson” means the Vice-Chairperson of the Tribunal referred to in section 4B;’

Substitution of new sections 4, 4A, 4B, 4C and 4D for section 4. Establishment of Inter-State River Water Disputes Tribunal.

3. For section 4 of the principal Act, the following sections shall be substituted, namely:—

‘4. With effect from such date as the Central Government may, by notification, appoint, there shall be established a Tribunal, to be called the Inter-State River Water Disputes Tribunal, for the adjudication of water disputes: 15

Provided that on and from the date of establishment of the Tribunal, all existing Tribunals shall stand dissolved and the water disputes pending adjudication before such existing Tribunals shall stand transferred to the Tribunal: 20

Provided further that the Chairmen and other members of the existing Tribunals who have attained the age of seventy years as on the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall cease to hold office on the expiry of three months from the date of such commencement:

Provided also that a dispute which has already been adjudicated and settled by an existing Tribunal prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall not be re-opened. 25

Disputes Resolution Committee.

4A. (1) As and when any request under section 3 is received from any State Government in respect of any water dispute, the Central Government shall set up a Disputes Resolution Committee, consisting of members from such relevant fields, as it deems fit, for resolving the dispute amicably. 30

(2) The Disputes Resolution Committee shall try to resolve a water dispute by negotiations within a period of one year which may be extended to a further period of six months and submit its report to the Central Government.

(3) The report submitted by the Disputes Resolution Committee shall contain details of— 35

(a) the stand taken by each State Government during negotiation;

(b) the views of members of the Committee on such stand; and

(c) all relevant facts, information and data relating thereto.

(4) Any water dispute which cannot be settled by negotiations shall be referred by the Central Government, by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the report under sub-section (2). 40

Composition of Tribunal.

4B. Subject to the provisions of section 12, the Tribunal shall consist of a Chairperson, Vice-Chairperson and not more than six members to be nominated in this behalf by the Chief Justice of India from amongst persons who at the time of such nomination are Judges of the Supreme Court or of a High Court: 45

Provided that the Chairmen and other members of the existing Tribunals (other than members who have ceased to hold office under second proviso to section 4) shall be nominated by the Chief Justice of India as Chairperson, Vice-Chairperson and Members of the Tribunal and they shall continue as such, subject to the provisions of section 4C.

4C. (1) The Chairperson shall hold office for a period of five years or till he attains the age of seventy years, whichever is earlier. Term of office.

(2) The term of office of the Vice-Chairperson and other members of the Tribunal shall be co-terminus with the adjudication of the water dispute and they shall cease to hold office upon dissolution of the bench under sub-section (2) of section 12:

Provided that no member shall hold office after he has attained the age of seventy years.

4D. (1) Subject to other provisions of this Act,—

Benches of Tribunal.

(a) the jurisdiction of the Tribunal may be exercised by the Benches thereof;

(b) the Chairperson may constitute a Bench with three members, out of which the senior-most member shall preside over the Bench:

Provided that a member of a Bench may also be a member of another Bench.

Explanation.— For the purposes of this clause, the term “senior-most member” means that a Judge of the Supreme Court shall always be senior to a Judge of a High Court and their seniority shall be determined from the date of their respective appointment as the Judge of the Supreme Court or of a High Court.

(2) The Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide.’.

4. In section 5 of the principal Act,—

Amendment of section 5.

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) On receipt of a reference in respect of any water dispute from the Central Government, the Chairperson shall assign such dispute to a Bench of the Tribunal to its adjudication.

(2) The Bench of the Tribunal shall, before investigating the water dispute referred to it under sub-section (1), take into consideration the report submitted by the Disputes Resolution Committee under sub-section (2) of section 4A, and forward to the Central Government its detailed report setting out the facts as found by it including on yield, efficiency in the use of water and such other matters as may be prescribed, and giving its decision on such dispute within a period of two years:

Provided that such report shall also provide for the distribution of water during distress situations arising from shortage in the availability of water in such manner as may be prescribed:

Provided further that if the report cannot be given within a period of two years for any unavoidable reasons, the Central Government may extend such period to a further period not exceeding one year.”;

(b) in sub-section (3),—

(i) for the words “on such reference, the Tribunal may”, the words “on such reference, the Bench of the Tribunal concerned may” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Central Government may extend the period of one year to a further period not exceeding six months.”.

Substitution of new sections 5A and 5B for section 5A.	5. For section 5A of the principal Act, the following sections shall be substituted, namely:—	5
Appointment of assessors.	<p>“5A. (1) The Central Government may appoint two experts serving in the Central Water Engineering Service not below the rank of Chief Engineer as assessors for each water dispute to advise the Bench in the proceedings before it.</p> <p>(2) The term of the assessors appointed under sub-section (1) shall be co-terminus with the adjudication of the dispute and they shall cease to be assessors after the dispute is adjudicated and the final report is forwarded to the Central Government.</p>	10
Filling of vacancies, temporary absence, etc.	<p>5B. (1) Subject to the provisions of this Act, if for any reason, a vacancy (other than a temporary absence) occurs in the office of the Chairperson, Vice-Chairperson or any other member of the Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by the Chief Justice of India in accordance with section 4B.</p> <p>(2) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson, nominated in accordance with the provisions of this Act to fill such vacancy, enters upon his office.</p> <p>(3) When any member of a Bench of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the Chairperson may assign the work of such member to any other member of the Tribunal till such member resumes his work.”.</p>	15
Substitution of new section for section 6.	6. For section 6 of the principal Act, the following section shall be substituted, namely:—	25
Decision of Bench of Tribunal binding on parties.	<p>“6. The decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court.”.</p>	30
Substitution of new section for section 9A.	7. For section 9A of the principal Act, the following section shall be substituted, namely:—	30
Maintenance of data bank and information.	<p>“9A. (1) The Central Government shall, for the purposes of maintaining a data bank and information system at the national level for each river basin, appoint or authorise an agency which shall maintain data relating to water resources, land, agriculture and such other matter, containing such particulars and in such manner, as may be prescribed.</p> <p>(2) As and when required by the Central Government, the State Government shall make available the data relating to any of the matters referred to in sub-section (1) to the Central Government or to the agency appointed or authorised under sub-section (1).</p> <p>(3) The Central Government or the agency referred to in sub-section (1) shall have powers to summon and verify any data, record or other relevant information received from the State Government.”.</p>	35
Substitution of new section for section 10.	8. For section 10 of the principal Act, the following section shall be substituted, namely:—	45
Terms and conditions of service of members and assessors.	<p>“10. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other members and assessors shall be such as may be prescribed.”.</p>	45

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

Substitution of new sections 12 and 12A for section 12.

5 “12. (1) After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or report, the Central Government shall, on the recommendations of the Chairperson, dissolve that Bench.

Dissolution of Bench.

(2) Upon dissolution of the Bench under sub-section (1), the members of that Bench (excluding Chairperson) shall vacate their respective offices:

Provided that where a member of a Bench is also a member of another Bench, such member shall continue as a member of such other Bench.

10 12A. (1) Upon the dissolution of a Bench of the Tribunal under section 12, the staff of such dissolved Bench shall be,—

Staff and assets of dissolved Bench.

(i) made available to any other Bench, if so required; or

(ii) repatriated to their parent cadre,

in such manner as may be prescribed.

15 (2) The assets and properties of the dissolved Bench shall be transferred to the Central Government or to the concerned State Government which provided such assets and properties.”.

10. In section 13 of the principal Act, in sub-section (2), for clauses (a) to (f), the following clauses shall be substituted, namely:—

Amendment of section 13.

20 “(a) the form and the manner in which a complaint as to any water dispute may be made by any State Government under section 3;

(b) the other matters, and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water, under sub-section (2) of section 5;

25 (c) the other matters in respect of which the Tribunal may be vested with the powers of a civil court under clause (d) of sub-section (1) of section 9;

(d) the procedure to be followed by the Tribunal under sub-section (4) of section 9;

30 (e) the other matters in respect of which data is to be maintained, the particulars thereof, and the manner of maintaining such data under sub-section (1) of section 9A;

(f) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson under section 10;

35 (g) the allowances or fee payable to, and other terms and conditions of service of, the Vice-Chairperson, other members and assessors under section 10;

(h) the manner in which the staff of the dissolved Bench shall be dealt with under sub-section (1) of section 12A;

(i) any other matter which has to be, or may be, prescribed.”.

Substitution of
new section
for section 14.

11. For section 14 of the principal Act, the following section shall be substituted,
namely:—

Matters
relating to
Ravi and Beas
Water
Tribunal.

“14. The Ravi and Beas Waters Tribunal constituted prior to the date of
commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall
stand dissolved and the water disputes pending adjudication before it shall stand 5
transferred to the Tribunal:

Provided that the concerned Bench shall proceed to deal with such dispute
from the stage at which it was so transferred.”.

STATEMENT OF OBJECTS AND REASONS

On account of increase in demand for water by the States, the inter-State river water disputes are on the rise. Though the Inter-State River Water Disputes Act, 1956 (33 of 1956) provides for a legal framework to address such disputes, it suffers from many drawbacks. Under the said Act, a separate Tribunal has to be established for each inter-State river water disputes. Only three out of eight Tribunals have made awards which are accepted by the States. Though the Cauvery and Ravi Beas Water Disputes Tribunals have been in existence for over 26 and 30 years respectively, they have not been able to make any successful award till date. Further, there is no provision in the Act fixing time limit for adjudication by a Tribunal or for any upper age limit for the Chairman or a Member of a Tribunal. There is no mechanism for continuation of work on occurrence of any vacancy in the office of the Chairman or a Member of a Tribunal nor is there a time limit for publishing the report of the Tribunal. All these drawbacks are causing delay in the adjudication of water disputes.

2. The Inter-State River Water Disputes (Amendment) Bill, 2017 seeks to streamline the adjudication of inter-State river water disputes and make the present legal and institutional architecture robust. The Bill proposes to introduce a mechanism to resolve the water dispute amicably by negotiations through a Disputes Resolution Committee, to be established by the Central Government consisting of experts from relevant fields, before such dispute is referred to the Tribunal.

3. The proposed Bill further seeks to provide for a single standing tribunal (with multiple Benches) instead of multiple tribunals, which shall consist of one Chairperson, one Vice-Chairperson and not more than six Members. While the term of office of the Chairperson is five years or till he attains the age of seventy years, whichever is earlier, the term of office of Vice-Chairperson and other Members of the Tribunal shall be co-terminus with the adjudication of the water disputes. It is also proposed that the Assessors, who provide technical support to the Tribunal, shall be appointed from amongst experts serving in the Central Water Engineering Service not below the rank of Chief Engineer. The total time period for adjudication of a water dispute has been fixed at a maximum of four and half years. The decision of the Bench of the Tribunal shall be final and binding on the States concerned, with no requirement of its publication in the Official Gazette.

4. The proposed Bill also seeks to provide for transparent data collection system at the national level for each river basin and for this purpose, an agency to maintain databank and information system shall be appointed or authorised by the Central Government.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 1st March, 2017.

UMABHARTI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to substitute new sections 4, 4A, 4B, 4C and 4D for section 4 of the Inter-State River Water Disputes Act, 1956. The proposed section 4 seeks to establish a single standing Inter-State River Water Disputes Tribunal with multiple Benches, which shall initially be constituted by merging of existing five Tribunals. As existing premises with necessary furniture are already available, no new premises or furniture are required for establishing the office of the new Standing Tribunal. Therefore, no non-recurring expenditure would be involved.

It is proposed to establish a single standing tribunal with multiple Benches, instead of multiple tribunals, by merging existing five tribunals. The new Tribunal shall consist of one Chairperson, one Vice-Chairperson and not more than six Members. Further, after the new Tribunal is established, the 107 sanctioned posts in the existing tribunals are proposed to be reduced to 80 posts. Therefore, on establishment of proposed new tribunal, the estimated annual recurring expenditure is likely to be reduced from existing Rs. 8 Crores to Rs. 5.5 Crores, thereby saving Rs. 2.5 Crore per annum.

The Bill, if enacted, therefore, does not involve any recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to substitute clauses (a) to (f) of sub-section (2) of section 13 relating to power to make rules. The proposed amendments seeks to provide for rule making powers in respect of —

(i) the other matters and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water;

(ii) the other matters of which data is to be maintained, the particulars such data shall contain and the manner in which such data shall be maintained; and

(iii) the manner in which the staff of the dissolved Bench shall be dealt with.

The matters in respect of which the rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE INTER-STATE RIVER WATER DISPUTES ACT, 1956
(33 OF 1956)

* * * * *

Definitions.

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

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

(b) “Tribunal” means a Water Disputes Tribunal constituted under section 4;

* * * * *

Constitution
of Tribunal.

4. (1) When any request under section 3 is received from any State Government in respect of any water dispute and the Central Government is of opinion that the water dispute cannot be settled by negotiations, the Central Government shall, within a period not exceeding one year from the date of receipt of such request, by notification in the Official Gazette, constitute a Water Disputes Tribunal for the adjudication of the water dispute:

Provided that any dispute settled by a Tribunal before the commencement of the Inter-State Water Disputes (Amendment) Act, 2002 shall not be re-opened.

(2) The Tribunal shall consist of a Chairman and two other members nominated in this behalf by the Chief Justice of India from among persons who at the time of such nomination are Judges of the Supreme Court or of a High Court.

(3) The Central Government may, in consultation with the Tribunal, appoint two or more persons as assessors to advise the Tribunal in the proceedings before it.

Adjudication
of water
disputes.

5. (1) When a Tribunal has been constituted under section 4, the Central Government shall, subject to the prohibition contained in section 8, refer the water dispute and any matter appearing to be connected with, or relevant to, the water dispute to the Tribunal for adjudication.

(2) The Tribunal shall investigate the matters referred to it and forward to the Central Government a report setting out the facts as found by it and giving its decision on the matters referred to it within a period of three years:

Provided that if the decision cannot be given for unavoidable reasons, within a period of three years, the Central Government may extend the period for a further period not exceeding two years.

(3) If, upon consideration of the decision of the Tribunal, the Central Government or any State Government is of opinion that anything therein contained requires explanation or that guidance is needed upon any point not originally referred to the Tribunal, the Central Government or the State Government, as the case may be, within three months from the date of the decision, against refer the matter to the Tribunal for further consideration, and on such reference, the Tribunal may forward to the Central Government a further report within one year from the date of such reference giving such explanation or guidance as it deems fit and in such a case, the decision of the Tribunal shall be deemed to be modified accordingly:

Provided that the period of one year within which the Tribunal may forward its report to the Central Government may be extended by the Central Government, for such further period as it considers necessary.

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5A. If, for any reason a vacancy (other than a temporary absence) occurs in the office of the Chairman or any other member of a Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by the Chief Justice of India in accordance with the provisions of sub-section (2) of section 4, and the investigation of the matter referred to the Tribunal may be continued by the Tribunal after the vacancy is filled and from the stage at which the vacancy occurred.

Filling of vacancies.

6. (1) The Central Government shall publish the decision of the Tribunal in the Official Gazette and the decision shall be final and binding on the parties to the dispute and shall be given effect to by them.

Publication of decision of Tribunal.

(2) The decision of the Tribunal, after its publication in the Official Gazette by the Central Government under sub-section (1), shall have the same force as an order or decree of the Supreme Court.

* * * * *

9A. (1) The Central Government shall maintain a data bank and information system at the national level for each river basin which shall include data regarding water resources, land, agriculture, and matters relating thereto, as the Central Government may prescribe from time to time. The State Government shall supply the data to the Central Government or to an agency appointed by the Central Government for the purpose, as and when required.

Maintenance of data bank and information.

(2) The Central Government shall have powers to verify the data supply by the State Government, and appoint any person or persons for the purpose and take such major as it may considered necessary. The person or persons to appointed shall have the powers to summon such records and information from the concerned State Government as are considered necessary to discharge their functions under this section.

10. The Chairman and other members of a Tribunal and the assessors shall be entitled to receive such remuneration, allowances or fees as may be prescribed.

Allowances or fees for Chairman of Tribunal and assessors.

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12. The Central Government shall dissolve the Tribunal after it has forwarded its report and as soon as the Central Government is satisfied that no further reference to the Tribunal in the matter would be necessary.

Dissolution of Tribunal.

13. (1)* * * * *

Power to make rules.

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

(a) the form and manner in which a complaint as to any water dispute may be made by any State Government;

(b) the matter in respect of which a Tribunal may be vested with the powers of a civil court;

(c) the procedures to be followed by a Tribunal under this Act;

(d) the remunerations, allowances or fees payable to the Chairman and other members of a Tribunal and assessors;

(e) the terms and conditions of service of officers and assessors of the Tribunal;

(f) any other matter which has to be, or may be, prescribed.

* * * * *

14. (1) Notwithstanding anything contained in the foregoing provisions of this Act, the Central Government may, by notification in the Official Gazette, constitute a Tribunal under this Act, to be known as the Ravi and Beas Waters Tribunal for the verification and adjudication of the matters referred to in paragraphs 9.1 and 9.2, respectively, of the Punjab settlement.

Constitution of Ravi and Beas Waters Tribunal.

(2) When a Tribunal has been constituted under sub-section (1), the provisions of sub-sections (2) and (3) of section 4, sub-sections (2), (3) and (4) of section 5 and sections 5A to 13 (both inclusive) of this Act relating to the constitution jurisdiction, powers, authority and bar of jurisdiction shall, so far as may be, but subject to sub-section (3) hereof, apply to the constitution, jurisdiction, powers, authority and bar of jurisdiction in relation to the Tribunal constituted under sub-section (1).

(3) When a Tribunal has been constituted under sub-section (1), the Central Government alone may *suo motu* or at the request of the concerned State Government refer the matters specified in paragraphs 9.1 and 9.2 of the Punjab Settlement to such Tribunal.

Explanation.—For the purposes of this section, “Punjab Settlement” means the Memorandum of Settlement signed at New Delhi on the 24th day of July, 1985.

LOK SABHA

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further to amend the Inter-State River Water Disputes Act, 1956.

(Ms. Uma Bharti, Minister of Water Resources, River Development and Ganga Rejuvenation)