

MAHARASHTRA MARINE FISHING REGULATION ACT, 1981

54 of 1981

[23rd September, 1981]

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MAHARASHTRA MARINE FISHING REGULATION ACT, 1981

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An Act to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State of Maharashtra WHEREAS it is expedient to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State of Maharashtra and for matters connected therewith or incidental thereto; It is hereby enacted in the Thirty-second Year of the Republic of India as follows

CHAPTER 1

Preliminary

1. Short title, extent and commence-ment :-

(1) This Act may be called the Maharashtra Marine Fishing Regulation Act, 1981.

(2) It extends to the whole of the State of Maharashtra (including the territorial waters).

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

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "Adjudicating Officer" means the Tahsildar having jurisdiction, and includes any other officer of the Revenue Department, not below the rank of Tahsildar, authorised by the State Government, by notification in the Official Gazette, to exercise the powers conferred on, and discharge the duties imposed upon, an Adjudicating Officer by this Act, in such area as may be specified by the notification;

(b) "Appellate Board" means an Appellate Board constituted under Section 18;

(c) "Enforcement Officer" means the Assistant Fisheries Development Officer having jurisdiction, and includes any other Officer of the Directorate of Fisheries Development Officer,

authorised by the State Government, by notification in the Official Gazette, to exercise the powers conferred on, and discharge the duties imposed upon, an Enforcement Officer by this Act, in such area as may be specified in the notification;

(d) "fishing vessel" means a boat or ship, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing for profit, and includes

(i) a country craft , and

(ii) a canoe, engaged in sea fishing for profit;

(e) "Licensing Officer" means the Assistant Fisheries Development Officer having jurisdiction, and includes any other officer of the Directorate of Fisheries, not below the rank of Assistant Fisheries Development Officer, authorised by the State Port Organisation authorized by State Government, by notification in the Official Gazette, to exercise the powers conferred on, and discharge the duties imposed upon, a Licensing Officer by this Act, in such area as may be specified in the notification;

(f) "Port" means the space within such limits as may, from time to time, be defined by the State Government, by notification in the Official Gazette, for the purposes of this Act;

(g) "Prescribed" means prescribed by rules made under this Act;

(h) "registered fishing vessel" means a fishing vessel registered under Section 9;

(i) "Registration Officer" means the Officer or servant in the State Port Organisation authorised by the Chief Port Officer for any specified area, and includes any other officer of the State Port Organisation authorized by State Government, by notification in the Official Gazette, to exercise the powers conferred on, and discharge the duties imposed upon, a Registration Officer by this Act, in such area as may be specified in the notification;

(j) "specified area" means such area in the sea along the entire coast line of the State, but not beyond territorial waters, as may be specified by the State Government, by notification in the Official Gazette;

(k) "State" means the State of Maharashtra, and includes the territorial waters along the entire coast line of that State.

3. Constitution of Advisory Committees :-

(1) The State Government, may by order constitute an Advisory Committee for each coastal District, with the District Magistrate as the Chairman and the Assistant Director of Fisheries of the District as the member-secretary, with representatives of the State Port Department and the Police Department as members. The Chairman shall co-opt representatives of other Government Departments and of the fishermen and the trade as he may deem fit. The Committee shall recommend to the State Government the regulations to be enforced under Chapter II.

(2) The Committee shall advise the State Government on the following issues which may come for consideration while enforcing the Act

(i) reservation of specified areas of the sea for fishing by vessels of a specified type;

(ii) prohibition of vessels of specified type or specified types from fishing in any specified area;

(iii) laying down maximum number of fishing vessels of specified type to be allowed for fishing in specified areas;

(iv) laying down maximum number of fishing vessels of specified types to be registered in each of the ports in the District;

(v) regulation or prohibition to catch specified species of fish in any specified area;

(vi) regulation or prohibition of specified fishing gear in specified areas;

(vii) prescribe timings for fishing operations where necessary;

(viii) any other matter which would facilitate effective enforcement of the provisions of the Act.

CHAPTER 2

Regulation of Fishing

4. Power to regulate, restrict or prohibit certain fishing activities within specified area :-

(1) The State Government may, having regard to the matters referred to in sub-section (2), and after consultation with the Advisory Committee, by order notified in the Official Gazette,

regulate, restrict or prohibit

(a) the fishing in any specified area by such class or classes of fishing vessels as may be specified; or

(b) the number of fishing vessels which may be used for fishing in any specified area; or

(c) the catching in any specified area of such species of fish and for such species of fish and for such period as may be specified in the orders; or

(d) the use of such fishing gear in any specified area as may be prescribed.

(2) In making an order under sub-section (1), the State Government shall have regard to the following materials namely

(a) the need to protect the interests of different sections of persons engaged in fishing, particularly those engaged in fishing using traditional fishing craft such as country craft or canoe;

(b) the need to conserve fish and to regulate fishing on a scientific basis;

(c) the need to maintain law and order in the sea;

(d) any other matter that may be prescribed.

5. Prohibition of use of fishing vessels in contravention of any order made under Section 4 :-

No owner or master of a fishing vessel shall use, or cause or allow to be used, such fishing vessel for fishing in any manner which contravenes an order made under Section 4.

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any specified area to, or from any area other than specified area, for the purpose of fishing in such other area or for any other purpose:

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as country craft or canoe.

6. Licensing of fishing vessels :-

(1) The owner of a fishing vessel may make an application to the Licensing Officer for the grant of a licence for using such fishing vessel for fishing in any specified area.

(2) Every application under sub-section (1) shall be in such form, contain such particulars, and be accompanied by such fees, as may be prescribed.

(3) The Licensing Officer may after making such inquiry as he deems fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant, to the owner of the fishing vessel, a licence for using such fishing vessel for fishing in the specified area or specified areas mentioned in such licence:

Provided that, before making any order refusing to grant a licence, the Licensing Officer shall give a reasonable opportunity of being heard to the applicant.

(4) In granting or refusing licence under sub-section (3), the Licensing Officer shall have regard to the following matters, namely;-

(a) whether the fishing vessel is a registered fishing vessel;

(b) the condition of the fishing vessel, including the accessories and fishing gear with which it is fitted.

(c) any order made under Section 4;

(d) any other matter that may be prescribed.

(5) A licence granted under this section shall be in such form and subject to such conditions, including conditions as to payment of such fees and furnishing such security for the due performance of the conditions, as may be prescribed:

Provided that different fees, and different amounts by way of security, may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section shall be valid for a period of three years which may be renewed for similar periods from time to time.

7. . :-

Prohibition of using fishing vessel which are not licensed No persons shall, after the commencement of this Act, carry on fishing in any

specified area using a fishing vessel which is not licensed under Section 6:

Provided that nothing in this section shall apply to any fishing vessel, which was being used for fishing immediately before the commencement of this Act, for a period of six months from such commencement, or such longer period as the State Government may, by notification in the Official Gazette, specify.

8. Cancellation, suspension and amendment of licences :-

(1) If the Licensing Officer is satisfied, either on a reference made to him in this behalf or otherwise, that-

(a) a licence granted under Section 6 has been obtained by misrepresentation as to an essential fact, or

(b) the holder of licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or any order or rule made thereunder then without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the Licensing Officer may, after giving the holder of the licence a reasonable opportunity of showing cause, suspend or cancel the licence or forfeit the whole or any part of the security, if any, furnished for the performance of the conditions, subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the Licensing Officer may also vary or amend a licence granted under Section 6, after recording the reasons therefor.

9. Registration of vessels :-

(1) The owner of every vessel used or intended to be used for purpose of fishing and kept in the State shall register such vessel under this Act.

(2) Every application for registration of such vessel shall be made by the owner thereof to the Registration Officer in such form, and shall be accompanied by such fees, as may be prescribed-

(a) before the expiration of one month from the date on which he first became the owner of such vessel; or

(b) before the expiration of three months from the commencement of this Act; whichever is later:

Provided that the Registration Officer may, for sufficient reason to be recorded in writing, extend the time limit for registration by such period as he thinks fit.

(3) The Registration Officer shall issue to the owner of the vessel registered by him a certificate of registration in the prescribed form and shall enter in a register to be kept by him, in such form as may be prescribed, the particulars of such certificate.

(4) Registration once made shall continue to be in force until it is cancelled by the Registration Officer.

(5) Every vessel registered under this section shall carry a registration mark, assigned to it by the Registration Officer, displayed in the prescribed manner.

(6) No vessel, other than a registered fishing vessel, shall be entitled to a licence under Section 6.

10. Information to be given to Registration Officer about movement of fishing vessel and his permission to be obtained :-

(1) Every owner of the fishing vessel shall declare his base port in the application for registration of the vessel.

(2) After registration of the vessel at a specified port, the owner of the vessel shall operate the vessel only from that port.

(3) In case the owner of the vessel intends to operate the vessel from a port other than the port specified in the registration certificate, he shall apply in writing to the Registration Officer indicating clearly the name of the port and the period for which the vessel will operate from that port. He shall shift the base of operation only after obtaining permission in writing from the Registration Officer. The Registration Officer reserves the right to refuse permission or even to cancel the permission granted, after giving one month's notice and after giving reasonable opportunity to show cause to the owner. The owner of the vessel to whom permission granted is cancelled shall shift his vessel from the temporary port within 24 hours after receipt of such order cancelling the permission.

11. Returns to be made by owners of registered fishing vessels :-

(1) Every owner of a registered fishing vessel shall furnish to the Registration Officer at the prescribed time and in the prescribed manner such returns as may be prescribed.

(2) The Registration Officer may inspect any registered fishing vessel at any time to verify the accuracy of any return made under this section.

12. Finality of orders under Section 6, 8 and 9 :-

Every decision of the Licensing Officer or the Registration Officer under Section 6, Section 8 or Section 9, granting or refusing to granting or refusing to grant licence for a fishing vessel or suspending, cancelling, varying or amending such licence or registration or cancellation of registration of a vessel, as the case may be, shall, subject to any right of appeal under Section 13, be final.

13. Appeals against orders refusing grant of licence of registration, etc. :-

(1) Any person aggrieved by an order of the Licensing Officer refusing to grant licence for fishing vessel or suspending, cancelling or varying or amending such licence or of the Registration Officer refusing to register a vessel or cancelling a registration of such vessel may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the Appellate Authority, i.e., the Chief Ports Officer of the State Port Organisation:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Authority shall after giving the appellant a reasonable opportunity of being heard, pass such orders thereon as it deems fit as expeditiously as possible.

(3) Every order passed by the Appellate Authority under this section shall be final.

CHAPTER 3

Penalties

14. Power to enter and search fishing vessel. :-

Any Enforcement Officer may, if he has reason to believe that any

fishing vessel is being, or has been, used in contravention of any of the provisions of this Act, or of any order or rule made thereunder or of any of the conditions of the licence, enter and search such vessel and impound such vessel and seize any fish found in it.

15. Disposal of seized fish. :-

(1) The Enforcement Officer referred to in Section 14 shall keep the fishing vessel, impounded in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of the fish seized, the Enforcement Officer may, if he is of the opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceeds thereon in the prescribed manner in the office of the Adjudicating Officer.

16. Adjudication :-

(1) Where any Enforcement Officer has reason to believe that any fishing vessel is being or has been, used in contravention of any of the provisions of this Act, or any order or rule made thereunder or of any of the conditions of the licence, he shall make a report thereof to the Adjudicating Officer.

(2) The Adjudicating Officer shall hold an inquiry into the matters mentioned in the report, in the prescribed manner after giving all the parties concerned a reasonable opportunity of being heard.

17. Imposition of penalty :-

(1) The Adjudicating Officer shall, after the inquiry is held under Section 16, decide whether any person has used or caused or allowed to be used, whether any fishing vessel in contravention of any of the provisions of this Act or of any order or rule made thereunder or of any of the conditions of the licence. When such person is found guilty by the Adjudicating Officer may, by order in writing impose on such person a penalty of an amount not exceeding-

(a) five thousand rupees, if the value of the fish involved is one thousand rupees or less;

(b) five times the value of the fish, if the value of the fish involved is more than one thousand rupees;

(c) five thousand rupees, in any other case, including a case where

there has been no catch of fish, as may be adjudged by the Adjudicating Officer.

(2) The amount of any penalty imposed under sub-section (1) shall be recoverable as arrear of land revenue.

(3) In addition to any penalty that may be imposed under subsection (1), the Adjudicating Officer may direct that-

(a) the registration certificate of the fishing vessel which has been used, or caused or allowed to be used, in the manner referred to in subsection (1) or the licence, any condition of which has been contravened, shall be

(i) cancelled or revoked, as the case may be; or

(ii) suspended for such period as the Adjudicating Officer deems fit; or

(b) the fishing vessel or fish that may have been impounded or seized as the case may be, under Section 14 shall be forfeited to the State Government:

Provided that no fishing vessel shall be forfeited under clause (b), if the Adjudicating Officer, after hearing the owner of such vessel or any person claiming any right thereto, is satisfied that the owner or such person had exercised due care for the prevention of the commission of such default.

18. Constitution of Appellate Board and appeals to Appellate Board :-

(1) In each District, the District Magistrate shall constitute the Appellate Board for the whole District.

(2) The State Government may, whenever necessary, by notification in the Official Gazette, constitute one or more Appellate Board, or Boards consisting of one member, for such area in the District as may be specified in the notification.

(3) Any person aggrieved by an order of the Adjudicating Officer may, within thirty days from the date on which the order is made, prefer an appeal to the Appellate Board, having jurisdiction to hear such appeal:

Provided that the Appellate Board may entertain any appeal after the expiry of the said period of thirty days, but not after the expiry

of sixty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) No appeal under this section shall be entertained by the Appellate Board, unless the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the Appellate Board may, if it is of the opinion that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing, dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit to impose.

(5) On receipt of an appeal under sub-section (4), the Appellate Board may, after holding such inquiry as it deems fit, and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the Appellate Board shall be final; and

(a) if the sum deposited by way of penalty under sub-section (4) exceeds the penalty directed to be paid by the Appellate Board, the excess amount, or

(b) if the Appellate Board sets aside the order imposing penalty, the whole of the sum deposited by way of penalty, shall be refunded to the appellant.

19. Revision by Appellate Board :-

The Appellate Board may call for an examination of the records of any order passed by an Adjudicating Officer under Section 17 and against which no appeal has been preferred under Section 18, for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

20. Power of Adjudicating Officer and the Appellate Board in relation to holding inquiry under this Act :-

(1) The Adjudicating Officer the Appellate Board shall, while

holding an inquiry, have all the powers of a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any Court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed.

(2) The Adjudicating Officer or the Appellate Board shall, while exercising any power under this Act, be deemed to be a Civil Court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure, 1973.

21. General provisions for punishment of offences :-

Whoever contravenes any of the provisions of this Act or any order or rule made thereunder or any of the conditions of the licence, shall, without prejudice to any other action which may be taken against him under this Act, on conviction, be punished with fine, which may extend to one thousand rupees, and with further fine which may extend to fifty rupees for every day on which such contravention continues after the first conviction.

22. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence 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, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purposes of this section-

(a) "company" 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.

CHAPTER 4

Miscellaneous

23. Exemptions :-

(1) Nothing contained in this Act shall apply to survey vessels belonging to the Central Government or any State Government or any Public Undertakings.

(2) If the State Government is of the opinion that, having regard to the purposes of this Act, it would not be in the public interest to apply all or any of the provisions of this Act, to any class or classes of fishing vessels used for fishing in any specified area or specified areas, it may by notification in the Official Gazette, exempt subject to such conditions as it may think fit to impose, such class or classes of fishing vessels used for fishing in such specified area or specified areas, and for such period or periods, as it may specify in the notification, from the operation of all or any of the provisions of this Act.

24. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule

made thereunder.

25. Power to make rules :-

(1) The power to make rules under this Act shall be exercisable by the State Government.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act to carry out the purposes of this Act.

(3) All rules made under this Act shall be subject to the condition of previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, 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 in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date publication of such notification, have effect 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 or omitted to be done under that rule.

26. Saving :-

Nothing in this Act shall apply to fishing and fisheries beyond territorial waters.