

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS JURISDICTION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

WRIT PETITION NO. OF 2020

Indian Pilots' Guild

...Petitioner

V/s

Air India Limited & Ors.

...Respondents

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Office Note, Office Memorandum of Coram, Appearances, Court Orders of directions and Prothonotary's Orders.	Court's or Judge's Order
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A. CHALLENGE IN BRIEF

This Petition challenges the 10% of deduction in wages (allowances) for the month of March 2020 of the Pilots (represented by the Petitioner) employed in the Resp No.1 establishment. This wage cut is made pursuant to the Circular issued by Resp. No.2 directing the cut on the grounds of "financial and COVID-19 crisis". It is in blatant violation of the directives issued by the Government of India (especially that dt. 29.03.2020) prohibiting employers from making any pay cuts during the COVID-19 Pandemic & lockdown regardless of whether or not establishments are operational. Resps Nos. 3 & 4 are personally liable for the implementation of the Government Order dt. 29.03.2020.

LIST OF DATES & EVENTS

Sr. No.	Date	Particulars	Exh No.	Page No.
1.	2005	Disaster Management Act (DM Act) enacted.	F	
2.	23.03.2020	Maharashtra Govt announced Lockdown with immediate effect in the State, under provisions of DM Act	E1	
3.	24.03.2020	Central Govt announced nationwide Lockdown wef. 25.03.2020 u/s. 10(2)(l) of DM Act.	E	
4.	20.03.2020	Advisory issued by Ministry of Labour & Employment urging employers to not	C	

II

		terminate or deduct wages of employees on account of the COVID-19 pandemic.		
5.	20.03.2020	Resp No.2 issued Office Order announcing a 10% deduction in allowances paid to all employees, except Cabin Crew, on account of COVID-19.	B	
6.	29.03.2020	Order issued u/s. 10(2)(I) of DM Act by prohibiting wage cuts by any employers irrespective of closure of establishments during lockdown.	D	
7.	18.04.2020	Wage Slip of employees of Respondent No.1 dispatched with 10% deduction in allowances as "COVID-19 Pay Cut".	A	
8.	03.04.2020	Protest Letter sent by Petitioner (& ICPA) to Resp. No.1 objecting to illegal deduction and demanding immediate payment of the same.	G	
9.	24.04.2020	Protest Letter sent by Petitioner (& other Assns) to Ministry of Civil Aviation objecting to illegal deduction by Resp. No.1.	I	
10.	03.05.2020	Letter from Petitioner to Resps Nos. 2 & 3 requesting them to ensure implementation of Government Order by Resp. No. 1.	H	
11.		No action taken by any of the Respondents to refund the deduction. Wage for April 2020 now due.		
12.		Hence this Petition.		

B. MAIN POINTS TO BE URGED

- a) That the Order of the Ministry of Home Affairs dt. 29.03.2020 mandates all employers to make payment of wages of their workers on the due date without any deduction for the period their establishments are under closure during the lockdown;
- b) That the Office Order of the Respondent No.2 dt. 20.03.2020 is in violation of the Order of the Ministry of Home Affairs dt. 29.03.2020;



- c) That the Order of the Ministry of Home Affairs explicitly makes the District Magistrate/DCP personally liable for implementation of the measures and obligations directed in the Order;
- d) That even otherwise, the master-servant relationship subsists; the member employees are willing to work and thus the Respondent employer is bound in law to pay their monthly wages;

C. ACTS AND CITATIONS

1. Disaster Management Act, 2005.
2. Industrial Disputes Act, 1947.
2. Other Acts and Citations at the time of Arguments.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS JURISDICTION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

WRIT PETITION NO. OF 2020

In the matter of Article 226 of the
Constitution of India

AND

In the matter of Articles 14 & 21 of the
Constitution of India

AND

In the matter of the Illegal Wage
Deduction by the Respondents from
the Wages of the Member Pilots on
the ground of COVID-19

Indian Pilots' Guild,
Transport Building, 1st floor,
Near Operations Dept,
Old Airport, Kalina,
Mumbai 400 029. Petitioner

V/s

1. Air India Limited,
Air India Building,

Nariman Point,
Mumbai 400 021.
cmd@airindia.in,
amrita.sharan@airindia.in

2. The District Magistrate
& District Collector, Mumbai Suburban,
10th Floor, Administrative Building,
Near Chetna College, Government Colony,
Bandra (E), Mumbai 400 051,
(collector.mumbaicity@maharashtra.gov.in)

3. The Deputy Commissioner of Police,
Zone 8, Mumbai,
20 Bandra Kurla Complex Road,
Bharat Nagar, Bandra (E),
Mumbai 400 051,
(dcpzone8-mum@mahapolice.gov.in) ... Respondents

**THE HON'BLE CHIEF JUSTICE
AND THE OTHER PUISNE JUDGES
OF THIS HON'BLE COURT**

**THE HUMBLE PETITION OF THE PETITIONER ABOVENAMED
MOST RESPECTFULLY SHOWETH:**

1. The Petitioner is a Trade Union registered under the Trade Unions Act, 1926, and represents pilots employed by the Respondent Company and who were the employees of Air India Ltd. prior to the merger with Indian Airlines Ltd. The Petitioner's registered office is at the address shown in the cause title. The Petitioners' members are posted throughout India including at Mumbai.

2. The Respondent No.1 is a Government Company registered under the Companies Act, 1956, and formed to merge the erstwhile Air India Limited and M/s. Indian Airlines Limited. The Respondent No. 2 is the District Magistrate & District Collector, Mumbai Suburban under whose jurisdiction the Mumbai airports fall. Under the Order dt. 29.03.2020 issued by the Hon'ble Home Secretary & Chairman of the National Executive Committee under section 10(2)(I) of the Disaster Management Act, 2005, directing that that all employers shall make payment of wages on their due date without any deduction for the period their establishments are under closure during the COVID-19 lockdown, the District Magistrate, as well as the Deputy Commissioner of Police will be personally liable for implementation of the said directions The Respondent No.3 is the Deputy Commissioner of Police (hereinafter referred to as DCP), Mumbai Zone 8, under whose jurisdiction the Mumbai airports fall. The Respondents No. 1 to 3 are "State" within the meaning of Article 12 of the Constitution of India.

3. The Petitioner is filing this Petition against the 10% deduction that has been made from the monthly wage packet (allowances) of the member Pilots by the Respondent No.1 for the month of March

2020 (including for days worked prior to the Lockdown). The wage slips issued list the cut under the “Deductions” column as “COVID-19 Pay Cut”. This deduction is not only illegal but in violation of Orders passed by the Central Government and under the Disaster Management Act, 2005 prohibiting any wage deduction during the COVID-19 Pandemic.

4. The deductions made were in the name “COVID-19 Pay Cut”. The same 10% cut was even made from the days worked prior to the enforcement of the lockdown (i.e, 1st March to 24th March inclusive). Annexed hereto and marked as 'Exhibit A' by way of sample is a true copy of a pay slip issued to one of the employees of the Respondent No.1 showing the same in the name “COVID-19 Pay Cut”. On 20th March an Office Order (Ref No. DP/2020/666) was issued by Respondent No.1 Air India Ltd. announcing (point 4) a 10% cut in allowances of all employees, “except cabin crew”, for 3 months on account of the COVID -19 crisis. The Office Order entitled “*Cost-cutting measures in wake of the current Financial & COVID-19 Crisis*” announced under point number 4 that a 10% cut in allowances (excluding Basic Pay, House Rent Allowance and Variable Dearness Allowance) of all employees, except Cabin Crew, for 3 months would be implemented with effect from March 2020 and that the Order had the “approval of the CMD”. Annexed hereto and marked as 'Exhibit B' is a true copy of the said Office Order dt. 20.03.2020 issued by the Respondent No.1. (Cabin crew does not include pilots and the deduction has been made from the wages of the member pilots for the month of March 2020 as can be seen from the wage slip annexed above).

5. On 20.03.2020, the same day as the above mentioned Office Order of the Respondent No.1 was issued, the Central Government through the Ministry of Labour issued an Advisory that all public and private employers are urged not to terminate or reduce the wages of their employees regardless of whether or not they are able to report to duty on account of the COVID-19 situation. Annexed hereto and marked as '**Exhibit C**' is a true copy of the said Advisory dt. 20.03.2020. This Advisory was issued prior to the nationwide lockdown and stated that the Government's instructions for people to stay at home to combat the pandemic may constrain many employees from attending duty. In light of this, employers in public and private sectors were requested to neither terminate nor deduct the wages of their workers in case of inability to report to duty. It was stated that such steps would "*adversely impact the financial conditions of employees and consequently weaken and hinder the country's fight against the coronavirus outbreak, thereby deepening the crisis*".

6. Thereafter, during the imposition of the nationwide lockdown, the Hon'ble Home Secretary, in his capacity as Chairman of the National Executive Committee appointed under the Disaster Management Act, 2005, issued an Order under the powers conferred under section 10(2)(l) of the said Act, directing, amongst other measures, that all employers must make payment of wages of their workers on the due date without any deduction for the period their establishments are under closure during the lockdown. Annexed hereto and marked as '**Exhibit D**' is a true copy of the said Order dt. 29.03.2020 issued under the Disaster Management Act, 2005.

(hereinafter referred to as DMA Order). This Order mandates that the District Magistrate / DCP will be personally liable for implementation of the above directions and lockdown measures issued under the Order. It further directs that in case of any violation of the measures in the Order, the respective State/UT Government shall take necessary action under the Disaster Management Act, 2005. As is clear from the DMA Order, the Home Secretary has issued this in his capacity as the Chairperson of the National Executive Committee which is responsible for implementing the policies and plans of the National Authority as provided under section 10(1) of the Act of 2005. The Order is issued u/s. 10(2) (l) of the said Act. It is in fact under the very same provision of the Act that the Lockdown Orders themselves have been issued. Annexed hereto and marked as 'Exhibit E' is a true copy of the original Lockdown Order dt. 24.03.2020 issued under the Disaster Management Act, 2005 (The Maharashtra Government however announced a lockdown earlier, wef. 23.03.2020 with immediate effect in the State). Annexed hereto and marked as 'Exhibit E-1' is a true copy of the original Lockdown Order dt. 23.03.2020 issued by the Government of Maharashtra under the Disaster Management Act, 2005). Annexed hereto and marked as 'Exhibit F' is a true copy of the Disaster Management Act, 2005.

7. The Petitioner / its members discovered from their wage slips, annexed above, that the 10% deduction has been made in their monthly wage packet for the month of March 2020 (which was paid on 18th of April 2020 instead of 1st April 2020) - which even included the days worked prior to the enforcement of the lockdown (i.e, 1st March to 24th March inclusive). It is most pertinent to note that for the member Pilots, as licensed category of employees employed by the

Respondent No.1 a very large percentage of the total wage package is paid through allowances – averaging around 70% of the total monthly wage package. The Petitioner was shocked to learn about the 10% deduction through their wage slips without any prior intimation, consultation or consent to the arbitrary step. The Petitioner states that the Office Order dt. 20.03.2020 issued by the Respondent No.1, annexed above at Exhibit B is in direct violation of the DMA Order dt. 29.03.2020 passed under the Disaster Management Act, 2005, and Advisory of the Government of India dt. 20.03.2020, which specifically prohibits and urges employers from making any pay cuts during the period of the lockdown. The pay cut effected by the Respondent Company cannot thus stand in law.

8. The Petitioner, along with the Association representing the ex Indian Airlines Pilots – the Indian Commercial Pilots' Association – addressed a letter to the management of the Respondent No.1 protesting the illegal deduction provided for in the impugned Circular dt. 20.03.2020 and pointing out how it was in breach of the Government Directives. and demanding payment of the same. Annexed hereto and marked as 'Exhibit G' is a true copy of the said an letter dt. 03/04/2020 addressed from the Petitioner to the management of Respondent No.1. A copy of the same was marked to the Respondent No.3.

9. As the Respondent No.1 failed to revert to the above letter of the Petitioner, never mind refund the deductions, the Petitioner addressed a letter dt. 03/05/2020 by e-mail to the Respondent No.2 District Magistrate and the Respondent No.3 DCP informing them about the matter as well as about the inaction of Respondent No.1

regarding the protest letter sent. Annexed hereto and marked as 'Exhibit H' is a true copy of the letter dt. 03/05/2020 addressed from the Petitioner to the Respondents Nos. 2 and 3. The Petitioner in this letter called upon the Respondents Nos. 2 and 3 to carry out the duty personally imposed upon them under the DMA Order dt. 29.03.2020 to ensure implementation of the directions of the said Order and immediate payment of the deducted amount to all employees. This letter also requested the Respondents Nos. 2 and 3 to ensure and enforce that no such further deductions from wages for April 2020 or thereafter shall be undertaken by the Respondent No. 1, as per the Government directions. The Petitioner, along with a number of trade unions & Associations representing a large section of the employees employed by the Respondent No.1, including Engineers, Service Engineers, Technicians & Ground Staff, also addressed a letter to the Ministry of Civil Aviation (with copies to various authorities including the Ministry of Labour) protesting the illegal deduction, pointing out how it was in breach of the Government Directives, especially the Order dt. 29/03/2020 and calling for the Government's support to Air India at all fronts during these testing times while the employees continue operating relief and rescue flights. Annexed hereto and marked as 'Exhibit I' is a true copy of the said letter dt. 24/04/2020 addressed by the Petitioner and other unions to the Ministry of Civil Aviation.

10. However, till date neither has the Respondent No. 1 responded to the Petitioner nor refunded the deducted amounts, and nor have the Respondents Nos. 2 and 3 responded to the letters of the Petitioner nor taken action against the Respondent No.1 to ensure implementation of the Order passed under the Disaster Management

Act, 2005, or punishment of the Respondents No. 1 for violation of the same.

11. The Petitioner states the Respondent No. 1 even otherwise has a terrible history of illegal deductions from the wages of the employees. The management illegally cut 25% of the member's allowance) w.e.f. around July 2012 "pending implementation of the Dharmadhikari Committee Report recommendations". Thereafter a new wage structure was unilaterally enforced on the member pilots w.e.f. 01/01/2019 which has reduced the overall wage of member pilots. Both the issue of the 25% arrears, which have till date not been paid, and the illegal new wage structure are pending in SLPs before the Hon'ble Supreme Court. When the Government of India earlier this year released the Expression of Interest for privatization of Air India Ltd., it is stated therein that these arrears would be paid to the workmen prior to the sale of the Company. Till date they have not been paid.

12. The Petitioner states that the management has only called upon some pilots to operate special rescue flights and ferry medical equipment to fight the COVID-19 crisis. This has been widely acknowledged and appreciated by both the Hon'ble P.M's office and the media. All the other pilots are ready and willing to work but are not being rostered due to the suspension of commercial flights during the Lockdown. The Respondent No. 1 is bound in law to pay the Petitioners their monthly wages and cannot deny the same. As stated above, the 10% cut in allowances for the month of March 2020 as well as in anticipation of the following months is utterly illegal and in clear breach of the orders and directives of the Government. The

deductions are even otherwise unlawful under Industrial law, including under section 9A of the Industrial Disputes Act, 1947. Furthermore, the deduction for the month of March 2020 is especially unjust, given that the employees have reported to duty and fulfilled their obligations for the majority of the days during the month (prior to the enforcement of the lockdown).

13. The Petitioner apprehends that given the Circular dt. 20.03.2020 of the Respondent No.1, the Respondent No.1 will continue to make 10% cuts from the wages (allowances) of April & May (& from the portion of allowance for March 2020 which are yet to be paid). The wage for April 2020 is due on 1st May 2020, but not yet paid. This matter is thus of the utmost urgency.

14. Aggrieved by the 10% deduction from the monthly wage (allowances) of the member employees by the Respondent No.1 for the month of March 2020 in the name of "COVID 19 Pay Cut" and the Office Order (Ref No. DP/2020/666) dt. 20.03.2020 issued by the Respondent No.1, and by the failure of the Respondents Nos. 2 & 3 to carry out their statutory duty to ensure the strict implementation of the Order dt. 29.03.2020 (Ref No. 40-3/2020-DM-I(A)) of the Hon'ble Home Secretary / Chairman, National Executive Committee, the Petitioner now approaches this Hon'ble Court for the reliefs as prayed for on the following grounds which are without prejudice to one another:-

(a) That the Order dt. 29.03.2020 is issued by the Hon'ble Home Secretary, in his capacity as Chairman of the National Executive Committee appointed under the Disaster

Management Act, 2005, and is issued under the powers conferred under section 10(2)(l) of the said Act;

- (b) That this Order mandates that all employers, including in the Industry or in shops and commercial establishments, must make payment of wages of their workers on the due date without any deduction for the period their establishments are under closure during the lockdown;
- (c) That this Order is strictly binding in law on the Respondent No 1;
- (d) That this Order is in fact under the very same provision of the Act that the Lockdown Orders themselves have been issued;
- (e) That the Office Order of the Respondent No.1 dt. 20.03.2020, and deduction of 10% of the allowances by the Respondent No.1 in the name of “COVID-19 Pay Cut” is inconsistent with and in blatant violation of the Order dt. 29.03.2020 passed under the Disaster Management Act, 2005, which compels employers to pay full wages to employees during the period of the lockdown;
- (f) That this order is clear that no deductions can be made from any component of the overall wage package, including allowances;

(g) That even otherwise the allowances of the members' comprise a major portion of their wage package;

(h) That the Order dt. 29.03.2020 passed under the Disaster Management Act, 2005, makes both the concerned District Magistrate & DCP personally liable for implementation of the measures and obligations directed in the Order;

(i) That the Petitioner has petitioned both the Respondent Nos. 2 & 3 in this regard, but to no avail

(j) That in failing to ensure that the Respondent No. 1 abides by the Order dt. 29.03.2020 passed under the Disaster Management Act, 2005, and in failing to take measures against them for failing to do so, the Respondents Nos. 2 & 3 have abdicated their statutory duty cast upon them under the said Act & Order;

(k) That the Office Order of the Respondent No.1 dt. 20.03.2020, and deduction of 10% of the allowances by the Respondent No.1 in the name of "COVID-19 Pay Cut" is further inconsistent with and in blatant violation of the Labour Ministry Advisory dt. 20.03.2020;

(l) That even otherwise, the master-servant relationship subsists; the member employees are willing to work and thus the Respondent employer is bound in law to pay their monthly wages;

(m) That such a wage deduction amounts to a change in service conditions in breach of section 9A and is thus *void ab initio*;

(n) That any deductions in wages (allowances) will result in grave financial setbacks for the employees who are undeniably the worst affected by this pandemic and its consequences;

(o) That in deducting 10% from the allowances of employees, the Respondents have acted arbitrarily, unreasonably, unlawfully, with discrimination and violated the fundamental rights of the Petitioner's members under Articles 14 & 21 of the Constitution of India;

(p) That given the Circular dt. 20.03.2020 of the Respondent No.1, the Respondent No.1 will continue to make 10% cuts from the wages (allowances) of April & May (& from the Flying Allowance & Layover Allowance for March 2020 which is yet to be paid). The wage for April 2020 is due on 1st May but has not yet been paid. This matter is thus of the utmost urgency.

(q) That section 71 of the Disaster Management Act, 2005 provides that no court except the Supreme Court or a High Court shall have jurisdiction to entertain a proceeding in respect of orders made under or in pursuance of any power conferred by this Act;

15. The Petitioner submits that the cause of action in this matter having partly arisen within the limits of Greater Bombay, this matter lies squarely within the jurisdiction of this Hon'ble Court.

16. The Petitioner states that it has not filed any other Petition in this matter either before this Hon'ble Court or before the Hon'ble Supreme Court of India.

17. The Petitioner states that it has prayed for justice but the same has been denied to it.

18. The Petitioner states that there has been no delay in the filing of this Petition.

19. The Petitioner states that there is no other equally efficacious and speedy alternative remedy available to it and that the reliefs prayed for herein, if granted will be complete.

20. The Petitioner states that it has annexed a list of documents on which it will rely.

21. The Petitioner states that it has affixed the required Court Fee of Rs. 250/- to this Petition.

22. The Petition is being affirmed by Shri Kanav Hingorani, the General Secretary of the Petitioner Guild who is competent and authorized to do so.

23. The Petitioner therefore prays:

(a). That this Hon'ble Court may be pleased by a Writ of Mandamus or in the nature of Mandamus or any other appropriate writ, order or direction, to direct the Respondent No.1 to pay to the members of the Petitioner the 10% of allowances deducted from the wage of March 2020, with interest at commercial rate;

(b). That this Hon'ble Court may be pleased by a Writ of Mandamus or in the nature of Mandamus or any other appropriate writ, order or direction, to direct the Respondent No.1 to pay full wages and allowances to the members of the Petitioner for the months of April 2020 and thereafter and not to make any deductions of any nature whatsoever in the name of the COVID-19 pandemic or any lockdown or reduced work / non-attendance on account of the same;

(c). That this Hon'ble Court may be pleased by a Writ of Mandamus or in the nature of Mandamus or any other appropriate writ, order or direction, to direct the Respondent No.1 to withdraw point no.4 ("Cut in Salary") from its Office Order (Ref No. DP/2020/666) dt. 20/03/2020 annexed above at Exhibit B;

(d). That pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to direct the

Respondent No.1 to pay to the members of the Petitioner the 10% of allowances deducted from the wage of March 2020;

(e). That pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to direct the Respondent No.1 to pay full wages and allowances to the members of the Petitioner for the months of April 2020 and thereafter and not to make any deductions of any nature whatsoever in the name of the COVID-19 pandemic or any lockdown or reduced work / non-attendance on account of the same;

(f). That pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to restrain the Respondent No.1 from acting on point no.4 ("Cut in Salary") of its Office Order (Ref No. DP/2020/666) dt. 20/03/2020 annexed above at Exhibit B;

(g). For Interim and ad-interim reliefs in terms of prayer clauses (d) to (f);

(h). For such other and further reliefs as this Hon'ble Court may deem fit;

(i). For costs of this Petition.

Mumbai

Dated this 5th day of May 2020



Petitioner
(Shri Kanav Hingorani)
(General Secretary)
Indian Pilots Guild

VERIFICATION

I, Shri Kanav Hingorani, the General Secretary of the Petitioner above named do hereby state and solemnly declare that what is stated above in paragraphs 1 to 13, 15, 20 - 22 & is true to my own knowledge and what is stated in remaining paragraphs 14, 16 – 19, 23 is based upon information and belief and I believe the same to be true.

Solemnly declared at Mumbai)
This 5th day of May 2020)



(Shri Kanav Hingorani)
(General Secretary)
Indian Pilots Guild

A handwritten signature in blue ink that reads "Karishma".

Karishma Rao
Advocate for Petitioner

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

AND

IN ITS JURISDICTION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

WRIT PETITION NO.

OF 2020

Indian Pilots' Guild,

Transport Building, 1st floor,

Near Operations Dept,

Old Airport, Kalina,

Mumbai 400 029. Petitioner

V/s

1. Air India Limited,

Air India Building,

Nariman Point, Mumbai 400 021.

[\(cmd@airindia.in\)](mailto:cmd@airindia.in),

[\(amrita.sharan@airindia.in\)](mailto:amrita.sharan@airindia.in)

2. The District Magistrate &

District Collector, Mumbai Suburban,

10th Floor, Administrative Building,

Near Chetna College, Government Colony,

Bandra (E), Mumbai 400 051,

[\(collector.mumbaicity@maharashtra.gov.in\)](mailto:collector.mumbaicity@maharashtra.gov.in)

3. The Deputy Commissioner of Police,
Zone 8, Mumbai,
20 Bandra Kurla Complex Road,
Bharat Nagar, Bandra (E), Mumbai 400 051,
(dcpzone8-mum@mahapolice.gov.in) ... Respondents

To,

The Prothonotary & Sr. Master,
High Court (O.S)

Sir,

VAKALATNAMA

I, Kanav Hingorani, General Secretary of the Petitioner Association
above- named, do hereby appoint Ms. Karishma Rao, Advocate, to act,
appear and plead on our behalf in the above-mentioned matter.

In witness whereof I have set and subscribed my hand to this writing at
Mumbai.

Dated this 5th day of May 2020.



(Kanav Hingorani)
(General Secretary)
(Indian Pilots' Guild)
(Petitioner)

Accepted by Me:



Ms. Karishma Rao
402, Yusuf Building,
Flora Fountain,
Mumbai 400 001.
Advocate Code: I 19319
OS Reg: 15707
Email: karishma01@gmail.com
Mob: 9920126101



Transport Building, 1st Floor, Near Operations Department, Old Airport, Kalina, Mumbai - 400 029, India.

Date: 04th May 2020

AUTHORITY LETTER

I hereby confirm that Shri. Kanav Hingorani, General Secretary, Indian Pilots Guild is authorized to file cases and sign vakalatnamas, document/affidavits etc. related thereto on behalf of our union before Labour Commissioners, Labour Courts, Industrial courts, National Company Law Tribunals, High Court, Bombay and the Supreme Court of India.



Capt. Ajay Goyat
Joint Secretary,
Indian Pilots' Guild

“Exhibit A”

WWW.LIVELAW.IN

Name : [REDACTED]

Designation : FIRST OFFICER [REDACTED]

Dept : OPERATIONS

Location : BOM OAP

March, 2020



DOB : [REDACTED]

PAY SCL : 29100.00 - 54500.00

PSG : P416

Pan No : [REDACTED]

Basic: 40560.00

DOJ : 27.04.2010

Ac/No : [REDACTED]

Bank : [REDACTED]

INC : 01.04.2020

Paid Days : 31

OT Hrs :

HOT Hrs :

OT Rates: 0.0000

Earnings		Deductions		Form 16 Summary	
Basic	40,560.00	Ee PF contribution	10,436.00	Gross Salary	2,761,176.54
HRA	12,168.00	Ee VPF contribution	30,124.00	Exemption U/S 10	
DA (Index)	63,800.88	Prof Tax - Full period	200.00	Balance	2,761,177.00
Other Allowance	20,280.00	Income Tax	50,623.00	Std Deduction	50,000.00
Special Pay- Pilots	15,000.00	COVID19 Pay Cut	6,028.00	Empmt tax (Prof Tax)	2,300.00
Wide Bodied Allowance	25,000.00	APWSS - Pilots Dues	2,000.00	Aggrg Deduction	52,300.00
		Provident Fund Loan	5,890.41	Gross Tot Income	2,708,877.00
				Agg of Chapter VI	150,000.00
				Total Income	2,558,880.00
				Tax on total Income	580,164.00
				Tax payable and surcharge	603,371.00
				Tax deducted so far	552,748.00
				Income Tax	50,623.00
Total		176,808.88	Total	105,301.41	

P 81000533 /18-Apr-20 3:05:02 PM

71,507.47

To retain PF Amt on Superannuation with AIEPF/IAEPF Trusts, all Retiring Emp. should visit respective Trusts by 15th of the Month for necessary formalities

“Exhibit B”A STAR ALLIANCE MEMBER Ref. No. DP/2020/666
Date : 20th March, 2020**OFFICE ORDER****Sub : Cost cutting measures in wake of the current Financial & COVID-19 crisis**

In the wake of recent global developments and the serious impact of COVID-19 pandemic, which has adversely impacted Aviation Industry both in the domestic as well in the International front there is an insurmountable dip in the revenue which calls for stringent measures to reduce our costs. All Airlines have taken drastic steps to survive the current crisis and an urgent need is felt to take steps to curtail costs to mitigate the current financial crisis.

An emergency 'Executive Management Committee' meeting was held on 18.03.2020 to deliberate on proposals to be undertaken to address the current crisis. After detailed discussions the following decisions were taken for immediate implementation : -

1. Negotiation with Lessors

An exercise to be undertaken to review all agreements and renegotiate with Lessors to reduce the rates, as far as possible.

2. Negotiation with Hotels

In view of the suspension/reduction of various flights, especially International flights, Hotel Committee is required to undertake a review of the existing agreements for reducing the rates to the extent possible. In case, there is any minimum guarantee clause existing, the same to be immediately suspended for a period of three months, without impacting the rates once the situation normalized.

3. Recover dues to Air India from Government Departments

Special Drive to be undertaken to recover all pending dues from Government Departments in a time bound manner. An aggressive action is required by the concerned offices in the Region as well at the Headquarters to collect the amount by the end of current Financial Year 2019-2020.

4. Cut in Salary

During the meeting, there was general consensus to undertake wage reduction of reasonable amount. It was agreed to implement 10% deduction in Allowances (excluding Basic Pay, House Rent Allowance and Variable Dearness Allowance) in respect of all employees, except Cabin Crew, for a period of three months effective March, 2020 salary.

एअर इंडिया लिमिटेड Air India Limited

रजिस्टर्ड कार्यालय : एअरलाइन्स हाउस, 113, गुरुद्वारा राकाबगंज रोड, नई दिल्ली-110001 EPABX : 23422000
Regd. Office : Airlines House, 113, Gurudwara Rakabganj Road, New Delhi-110001. EPABX : 23422000
वेबसाईट Website : www.airindia.in



- : 2 : -

5. Quick Turnaround Flights for Cabin / Cockpit Crew

Keeping in view the contagious COVID-19, ED (Operations) to approach DGCA to take approval of Quick Turnaround of Cockpit / Cabin Crew, wherever possible. ED (Operations) to formulate a detailed proposal to seek dispensation as required from DGCA.

6. Increase Cargo loads

In view of reduction in passenger load due COVID-19, cargo sale to be aggressively taken up for optimal utilization of available space/load to ensure maximum revenue.

7. Reduction in services

In view of COVID-19, there is a need to ensure minimum contact with passengers. Accordingly, only packed food to be served. Service of Magazines, Newspapers, Cold/Wet Towels, and Blankets shall be discontinued with immediate effect.

8. Undertake Mandatory Training of Cabin / Cockpit Crew

In view of the curtailed scheduled operations, and reduced requirement of Aircraft and manpower, mandatory Training for Cockpit / Cabin Crew to be undertaken and completed during this period.

9. Use of 'Video Conference' facility for classroom Training

The facility of 'Video Conference' is available at certain bases, utilization of the same be increased to ensure Class Room Training, without major SOD movements. This will ensure timely update of training requirements, at the time of reduced / curtailed operations.

10. Club Flights / Curtail flights

In view of reduction in passenger load and to optimize available resources /contain costs, GM(Market Planning)/ GM(RMMA) in consultation with ED(Operations) and under the guidance of Director (Commercial) to review the flight schedule by clubbing/ curtailing the flights.

11. Privilege Leave

In view of reduced work load and also the COVID-19 threat, employees may be encouraged to avail their Privilege Leave.

एअर इंडिया लिमिटेड Air India Limited

रजिस्टर्ड कार्यालय : एअरलाइन्स हाउस, 113, गुरुद्वारा रकाबगंज रोड, नई दिल्ली-110001 EPABX : 23422000

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- : 3 : -

12. 'Work from Home'

A suggestion was also made during the meeting to allow 'Work from Home' with a reduction of salary wherever possible, without impacting the operations. Departmental Heads to formulate a detailed proposal and submit the same with work requirement and Cost Benefit Analysis.

13. No fresh Recruitment / Induction / Hiring

Induction of fresh employees to be stopped immediately and wherever the recruitment exercises have already been initiated, the same should be kept in abeyance till further orders.

14. No extension/ re-employment to retired officials (except for Pilots and other critical categories)

Post Retirement engagements of employees to be discontinued. There will be no fresh Post Retirement Contractual Engagement in any category, except for Pilots and certain other critical categories.

15. Invoke 'Force Majeure' clause in all agreements for specific duration

Keeping in view the extreme emergent circumstances, invoking of 'Force Majeure' Clause for a limited period in all agreements may be examined, which will help overcome current financial crisis, subject to legal clearance.

16. Stoppage of Overtime payment

Stoppage of Overtime/ Weekly Offs/ Holiday Pay/ Late Sitting with immediate effect.

17. Introduction of Flexible Hours

A suggestion was also made to introduce Flexible hours. Department Heads to examine and submit a proposal on the same.

18. Reduce SOD Travel (International) : P-Form / Domestic SOD Travel

International SOD Travel movement to be stopped immediately. Wherever required for operational purposes, the concerned Functional Director/ Department Head may take special exemption from CMD.

Domestic SOD travel also to be reduced bare minimum.



- : 4 : -

19. Plan deep cleaning/repair of seats of Aircraft without impacting the operations by rotational system

Engineering to plan for deep cleaning and repair of seats without impacting the operations.

20. Maintenance of hygiene standards of Aircraft

In view of COVID-19, Engineering to undertake all steps to maintain hygiene Standards.

21. General cleanliness

General cleanliness to prevent spread of COVID-19 to be maintained at the highest standard. Adequate quantity of Masks, Gloves and Sanitizers, wherever required, to be distributed to the employees. All offices and work premises to be cleaned / sanitized at war footing level at regular intervals per day.

This is issued with the approval of CMD.



(Amrita Sharan)
Director (Personnel)

CC : FDs, CVO, EDs, RDs-ERMR/NR/SR, all GMs

एअर इंडिया लिमिटेड Air India Limited

रजिस्टर्ड कार्यालय : एअरलाइन्स हाउस, 113, गुरुद्वारा रकाबगंज रोड, नई दिल्ली-110001 EPABX : 23422000
Regd. Office : Airlines House, 113, Gurudwara Rakabganj Road, New Delhi-110001. EPABX : 23422000
वेबसाइट Website : www.airindia.in

श्रम मंत्रालय ने एडवाइजरी जारी की ,किसी भी सरकारी या प्राइवेट नौकरी वाले व्यक्ति का वेतन नहीं काटा जाये, चाहे वह ऊँटी पर रहे या न रहे.

29

“Exhibit C”



हीरालाल सामरिया, आई०ए०एस०
भारत सरकार के सचिव
HEERALAL SAMARIYA, I.A.S.
Secretary to Govt. of India

MINISTRY OF LABOUR & EMPLOYMENT
SHRAM SHAKTI BHAVAN
NEW DELHI - 110001

श्रम एवं रोजगार मंत्रालय
श्रम शक्ति भवन
नई दिल्ली-110001
Tele : 91-11-23 71 02 65
Fax : 91-11-23 35 56 79
E-mail : secy-labour@nic.in

D.O. No. M-11011/08/2020-Media

March 20, 2020

Dear Chief Secretaries,

The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries.”

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With regards,

Yours sincerely,

(Heeralal Samariya)

"Exhibit D"

No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001
Dated 29th March, 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order of even number dated 24.03.2020, followed by Addendum Orders of even number dated 25.03.2020 and 27.03.2020 to the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions to implement lockdown measures annexed to the said Orders for the containment of spread of COVID-19 in the country;

Whereas, movement of a large number of migrants have taken place in some parts of the country so as to reach their home towns. This is a violation of the lockdown measures on maintaining social distance;

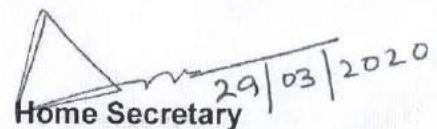
Whereas, to deal with the situation and for effective implementation of the lockdown measures, and to mitigate the economic hardship of the migrant workers, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act 2005, the undersigned, in the capacity as Chairperson, National Executive Committee hereby directs the State/Union Territory Governments and State/ Union Territory Authorities to take necessary action and to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police, to take following additional measures:

- i. State/Union Territory Governments shall ensure adequate arrangements of temporary shelters, and provision of food etc. for the poor and needy people, including migrant labourers, stranded due to lockdown measures in their respective areas;
- ii. The migrant people, who have moved out to reach their home states/ home towns, must be kept in the nearest shelter by the respective State/Union Territory Government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- iii. All the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;



- iv. Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.
- v. If any landlord is forcing labourers and students to vacate their premises, they will be liable for action under the Act.

It is further directed that in case of violation of any of the above measures, the respective State/UT Government, shall take necessary action under the Act. The District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police will be personally liable for implementation of the above directions and lockdown measures issued under the above mentioned Orders.



29/03/2020
Home Secretary

To

1. **The Secretaries of Ministries/ Departments of Government of India**
2. **The Chief Secretaries/Administrators of States/Union Territories**
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

**Government of India
Ministry of Home Affairs**

North Block, New Delhi-110001

Dated 24th March, 2020

ORDER

Whereas, the National Disaster Management Authority (NDMA), is satisfied that the country is threatened with the spread of COVID-19 epidemic, which has already been declared as a pandemic by the World Health Organisation, and has considered it necessary to take effective measures to prevent its spread across the country and that there is a need for consistency in the application and implementation of various measures across the country while ensuring maintenance of essential services and supplies, including health infrastructure;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority (NDMA), has issued an Order no. 1-29/2020-PP (Pt.II) dated 24.03.2020 (Copy enclosed) directing the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities to take effective measures so as to prevent the spread of COVID-19 in the country;

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues guidelines, as per the Annexure, to Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions for their strict implementation. This Order shall remain in force, in all parts of the country for a period of 21 days with effect from 25.03.2020.



24/3/2020
Home Secretary

To

- 1. The Secretaries of Ministries/ Departments of Government of India**
- 2. The Chief Secretaries/Administrators of States/Union Territories**
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

Annexure to Ministry of Home Affairs Order No .40-3/2020-D dated ()24.03.2020

Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country.

1. Offices of the Government of India, its Autonomous/ Subordinate Offices and Public Corporations shall remain closed.

Exceptions:

Defence, central armed police forces, treasury, public utilities (including petroleum, CNG, LPG, PNG), disaster management, power generation and transmission units, post offices, National Informatics Centre, Early Warning Agencies

2. Offices of the State/ Union Territory Governments, their Autonomous Bodies, Corporations, etc. shall remain closed.

Exceptions:

- a. Police, home guards, civil defence, fire and emergency services, disaster management, and prisons.
- b. District administration and Treasury
- c. Electricity, water, sanitation
- d. Municipal bodies—Only staff required for essential services like sanitation, personnel related to water supply etc

The above offices (Sl. No 1 & 2) should work with minimum number of employees. All other offices may continue to work-from-home only.

3. Hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector, such as dispensaries, chemist and medical equipment shops, laboratories, clinics, nursing homes, ambulance etc. will continue to remain functional. The transportation for all medical personnel, nurses, para-medical staff, other hospital support services be permitted.

4. Commercial and private establishments shall be closed down.

Exceptions:

- a. Shops, including ration shops (under PDS), dealing with food, groceries, fruits and vegetables, dairy and milk booths, meat and fish, animal fodder. However, district authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.
- b. Banks, insurance offices, and ATMs.
- c. Print and electronic media
- d. Telecommunications, internet services, broadcasting and cable services. IT and IT enabled Services only (for essential services) and as far as possible to work from home.
- e. Delivery of all essential goods including food, pharmaceuticals, medical equipment through E-commerce.

GOVERNMENT OF MAHARASHTRA

**Department of Revenue and Forest, Disaster Management,
Relief and Rehabilitation, Mantralaya, Mumbai- 400 032**
No: DMU/2020/CR. 92/DisM-1, Dated: 23rd March 2020

NOTIFICATION

COVID -19 – The Epidemic Diseases Act, 1897- Lockdown – Orders

Reference:

1. The Epidemic Diseases Act, 1897
2. The Disaster Management Act, 2005
3. Government Notification, Public Health Department, No. Corona-2020/CR-58/Aarogya-5, Dated- 13th March 2020, 14th March 2020, 15th March 2020

No: DMU/2020/CR. 92/DMU-1- Whereas the State Government is satisfied that the State of Maharashtra is threatened with the spread of Covid-19 Virus, which has already been declared as a pandemic by World Health Organization, and it is therefore necessary to take certain further emergency measures to prevent and contain the spread of virus, the Government in exercise of the powers conferred under Section 2 of The Epidemic Diseases Act, 1897, read with all other enabling provisions of The Disaster Management Act, 2005, **hereby notify lockdown in the entire State of Maharashtra with Immediate effect till 31st of March, 2020**, prescribing the following regulations and measures during the said period:

1. All state borders shall be sealed other than for movement of essential and perishable commodities.
2. All public transport services including inter-city MSRTC buses and Metro will not be permitted. Taxis with not more than two persons besides driver, auto-rickshaws with not more than one passenger besides driver are permitted only for the purposes specified in the order. However, transport of passengers for accessing emergency medical services shall be permitted. Plying of private vehicles shall be restricted only to the extent

of procuring essential commodities, health services and activities permitted under this order, and with only one person besides driver.

3. Operation of all inter-state bus and passenger transport services (including private vehicles) including those by private operators shall stand suspended.
4. Every person who is required to observe home quarantine shall strictly observe the same failing which he/she will be liable for penal action and shifted to government quarantine.
5. Residents shall stay at home and come out only for permitted activities while strictly observing social distancing norms and abiding the conditions stated at para 2 above.
6. Any congregation of more than 5 persons in public places is prohibited.
7. All shops including commercial establishments, offices and factories, workshops, godowns etc. shall close their operations. However, production and manufacturing units which require continuous process & pharmaceuticals, API etc will be permitted. Further, manufacturing units engaged in production of essential commodities like dal and rice mills, food and related units, dairy units, feed and fodder units etc. may function will also be permitted to operate.
8. Government offices, shops and establishments permitted to operate during this period with barest minimum staff and shall take steps to ensure social distancing such as painting of foot marks at distances of 3 feet from each other near check out counters. They shall also ensure proper sanitation in their premises and ensure availability of hand sanitizers/hand washing facilities.
9. The following shops/establishments providing essential goods and services shall be excluded from the above restrictions:
 - a) Banks/ATMs, insurance, FinTech services and related activities.
 - b) Print and electronic media
 - c) IT and ITeS, including telecom, postal, internet and data Services
 - d) Supply chain and transport of essential commodities
 - e) Export and Import of agricultural goods and products, and all commodities.

- f) E-Commerce (delivery) of essential goods including food, pharmaceutical and medical equipment
- g) Sale of food items, groceries, milk, bread, fruits, vegetables, eggs, meat, fish and their transportation and warehousing activities
- h) Bakery and veterinary establishments for the pets
- i) Take-away/ home delivery at restaurants
- j) Hospitals, pharmacies and optical stores, pharmaceuticals manufacturing & their dealers and their transportation
- k) Petrol pumps, LPG gas, oil agencies, their godowns and their related transport operations
- l) All security and facility management services including those provided by private agencies to institutions providing essential services
- m) Private establishments that support the provisioning of essential services or the efforts for containment of COVID-19
- n) The supply chain relating to above.
- o) All enforcing authorities to note that fundamentally strict restrictions relate to movement of people but not to goods and commodities as a matter of principle.

10. The Departments/Offices of the State Government and its Public Sector Undertaking (PSU) providing services shall be functional only to the extent of providing essential services.

11. All religious places of any denomination shall be closed by issuing suitable prohibitory orders.

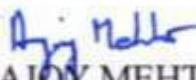
12. During the lockdown period, steps will be taken to ensure that there is no disruption in the supply of essential commodities to the people.

13. All elective surgeries shall be re-scheduled in all private and Government hospitals to enhance the availability of health care facilities to COVID-19 patients.

14. All Divisional Commissioners, Municipal Commissioners and Collectors are directed to identify vacant places near hospitals for housing health staff in case of necessity.

15. The Collectors of following districts which are at presently Corona disease free shall issue orders prohibiting any vehicular movements into their districts, Viz. Wardha, Bhandara, Gondia, Chandrapur, Gadchiroli, Satara, Sangli, Kolhapur, Solapur, Buldhana, Amravati, Akola, Washim, Nashik, Dhule, Nandurbar, Jalgaon, Beed, Jalna, Osmanabad, Parbhani, Hingoli, Latur, Nanded and Sindhudurg. This shall not apply to medical emergencies.
16. All the District Collectors, District Superintendents of Police, Commissioners of Police, Municipal Commissioners of Corporations and other competent authorities in respect of the concerned institutions, organizations and establishments are hereby authorized and directed to take all necessary measures in a humane and judicious manner for enforcement and implementation of the aforesaid regulations and measures.
17. Any person, institution, organization violating any provision of these regulations shall be dealt under the provisions of The Epidemics Diseases Act 1897, The Disaster Management Act 2005, other relevant Acts and regulations there under.
18. No suit or legal proceedings shall lie against any person for anything done or intended to be done in good faith under these regulations.
19. All earlier orders issued by the various authorities will be aligned with this order by the enforcement agencies.

BY ORDER AND IN THE NAME OF THE GOVERNOR OF
MAHARASHTRA


(AJAY MEHTA)

CHIEF SECRETARY
GOVERNMENT OF MAHARASHTRA

Copy to:

- 1) Principal Secretary to Hon'ble Governor of Maharashtra, Rajbhavan, Mumbai
- 2) Principal Secretary to Hon'ble Chief Minister, Government of Maharashtra
- 3) Secretary to Hon'ble Deputy Chief Minister, Government of Maharashtra
- 4) Private Secretaries of All Hon'ble Minister / Minister of State, Mantralaya
- 5) All Additional Chief Secretaries / Principal Secretaries / Secretaries of Government of Maharashtra, Mantralaya

"Exhibit F"

रजिस्ट्री सं. डी. एल.—(एन)04/0007/2003—05

REGISTERED NO. DL—(N)04/0007/2003—05



भारत का वाचापत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 64] नई दिल्ली, सोमवार, दिसम्बर 26, 2005 / पौष 5, 1927

No. 64] NEW DELHI, MONDAY, DECEMBER 26, 2005 / PAUSA 5, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
 Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 26th December, 2005/Pausa 5, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd December, 2005 and is hereby published for general information:—

THE DISASTER MANAGEMENT ACT, 2005**No. 53 OF 2005**

[23rd December, 2005.]

An Act to provide for the effective management of disasters 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. (1) This Act may be called the Disaster Management Act, 2005.

(2) It extends to the whole of India.

(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 provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

Short title,
extent and
commencement.

Definitions.

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

(a) "affected area" means an area or part of the country affected by a disaster;

(b) "capacity-building" includes—

(i) identification of existing resources and resources to be acquired or created;

(ii) acquiring or creating resources identified under sub-clause (i);

(iii) organisation and training of personnel and coordination of such training for effective management of disasters;

(c) "Central Government" means the Ministry or Department of the Government of India having administrative control of disaster management;

(d) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(e) "disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

(i) prevention of danger or threat of any disaster;

(ii) mitigation or reduction of risk of any disaster or its severity or consequences;

(iii) capacity-building;

(iv) preparedness to deal with any disaster;

(v) prompt response to any threatening disaster situation or disaster;

(vi) assessing the severity or magnitude of effects of any disaster;

(vii) evacuation, rescue and relief;

(viii) rehabilitation and reconstruction;

(f) "District Authority" means the District Disaster Management Authority constituted under sub-section (1) of section 25;

(g) "District Plan" means the plan for disaster management for the district prepared under section 31;

(h) "local authority" includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zila Parishad or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specified local area;

(i) "mitigation" means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;

(j) "National Authority" means the National Disaster Management Authority established under sub-section (1) of section 3;

(k) "National Executive Committee" means the Executive Committee of the National Authority constituted under sub-section (1) of section 8;

(l) "National Plan" means the plan for disaster management for the whole of the country prepared under section 11;

(m) "preparedness" means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof;

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

(o) "reconstruction" means construction or restoration of any property after a disaster;

(p) "resources" includes manpower, services, materials and provisions;

(q) "State Authority" means the State Disaster Management Authority established under sub-section (1) of section 14 and includes the Disaster Management Authority for the Union territory constituted under that section;

(r) "State Executive Committee" means the Executive Committee of a State Authority constituted under sub-section (1) of section 20;

(s) "State Government" means the Department of Government of the State having administrative control of disaster management and includes Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(t) "State Plan" means the plan for disaster management for the whole of the State prepared under section 23.

CHAPTER II

THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. (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 known as the National Disaster Management Authority.

Establishment
of National
Disaster
Management
Authority.

(2) The National Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the Central Government and, unless the rules otherwise provide, the National Authority shall consist of the following:—

(a) the Prime Minister of India, who shall be the Chairperson of the National Authority, *ex officio*;

(b) other members, not exceeding nine, to be nominated by the Chairperson of the National Authority.

(3) The Chairperson of the National Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the National Authority.

(4) The term of office and conditions of service of members of the National Authority shall be such as may be prescribed.

4. (1) The National Authority shall meet as and when necessary and at such time and place as the Chairperson of the National Authority may think fit.

Meetings of
National
Authority.

(2) The Chairperson of the National Authority shall preside over the meetings of the National Authority.

(3) If for any reason the Chairperson of the National Authority is unable to attend any meeting of the National Authority, the Vice-Chairperson of the National Authority shall preside over the meeting.

5. The Central Government shall provide the National Authority with such officers, consultants and employees, as it considers necessary for carrying out the functions of the National Authority.

Appointment
of officers
and other
employees of
the National
Authority.

6. (1) Subject to the provisions of this Act, the National Authority shall have the responsibility for laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster.

(2) Without prejudice to generality of the provisions contained in sub-section (1), the National Authority may —

(a) lay down policies on disaster management;

(b) approve the National Plan;

(c) approve plans prepared by the Ministries or Departments of the Government of India in accordance with the National Plan;

(d) lay down guidelines to be followed by the State Authorities in drawing up the State Plan;

(e) lay down guidelines to be followed by the different Ministries or Departments of the Government of India for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;

(f) coordinate the enforcement and implementation of the policy and plan for disaster management;

(g) recommend provision of funds for the purpose of mitigation;

(h) provide such support to other countries affected by major disasters as may be determined by the Central Government;

(i) take such other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary;

(j) lay down broad policies and guidelines for the functioning of the National Institute of Disaster Management.

(3) The Chairperson of the National Authority shall, in the case of emergency, have power to exercise all or any of the powers of the National Authority but exercise of such powers shall be subject to *ex post facto* ratification by the National Authority.

7. (1) The National Authority may constitute an advisory committee consisting of experts in the field of disaster management and having practical experience of disaster management at the national, State or district level to make recommendations on different aspects of disaster management.

(2) The members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government in consultation with the National Authority.

8. (1) The Central Government shall, immediately after issue of notification under sub-section (1) of section 3, constitute a National Executive Committee to assist the National Authority in the performance of its functions under this Act.

(2) The National Executive Committee shall consist of the following members, namely—

(a) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the disaster management, who shall be Chairperson, *ex officio*;

(b) the Secretaries to the Government of India in the Ministries or Departments having administrative control of the agriculture, atomic energy, defence, drinking water supply, environment and forests, finance (expenditure), health, power, rural development, science and technology, space, telecommunication, urban development,

water resources and the Chief of the Integrated Defence Staff of the Chiefs of Staff Committee, *ex officio*.

(3) The Chairperson of the National Executive Committee may invite any other officer of the Central Government or a State Government for taking part in any meeting of the National Executive Committee and shall exercise such powers and perform such functions as may be prescribed by the Central Government in consultation with the National Authority.

(4) The procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the Central Government.

9. (1) The National Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for the efficient discharge of its functions.

(2) The National Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.

10. (1) The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and ensure the compliance of directions issued by the Central Government for the purpose of disaster management in the country.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the National Executive Committee may —

(a) act as the coordinating and monitoring body for disaster management;

(b) prepare the National Plan to be approved by the National Authority;

(c) coordinate and monitor the implementation of the National Policy;

(d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;

(e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;

(f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;

(g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;

(h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;

(i) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;

(k) coordinate response in the event of any threatening disaster situation or disaster;

(l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the

State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;

(m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;

(n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or non-governmental organisations and others engaged in disaster management;

(o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;

(p) promote general education and awareness in relation to disaster management; and

(q) perform such other functions as the National Authority may require it to perform.

11. (1) There shall be drawn up a plan for disaster management for the whole of the country to be called the National Plan.

(2) The National Plan shall be prepared by the National Executive Committee having regard to the National Policy and in consultation with the State Governments and expert bodies or organisations in the field of disaster management to be approved by the National Authority.

(3) The National Plan shall include—

(a) measures to be taken for the prevention of disasters, or the mitigation of their effects;

(b) measures to be taken for the integration of mitigation measures in the development plans;

(c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster;

(d) roles and responsibilities of different Ministries or Departments of the Government of India in respect of measures specified in clauses (a), (b) and (c).

(4) The National Plan shall be reviewed and updated annually.

(5) Appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.

(6) Copies of the National Plan referred to in sub-sections (2) and (4) shall be made available to the Ministries or Departments of the Government of India and such Ministries or Departments shall draw up their own plans in accordance with the National Plan.

12. The National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,—

(i) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;

(ii) the special provisions to be made for widows and orphans;

(iii) *ex gratia* assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.

13. The National Authority may, in cases of disasters of severe magnitude, recommend relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

CHAPTER III

STATE DISASTER MANAGEMENT AUTHORITIES

14. (1) Every State Government shall, as soon as may be after the issue of the notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a State Disaster Management Authority for the State with such name as may be specified in the notification of the State Government.

(2) A State Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the State Government and, unless the rules otherwise provide, the State Authority shall consist of the following members, namely:—

(a) the Chief Minister of the State, who shall be Chairperson, *ex officio*;

(b) other members, not exceeding eight, to be nominated by the Chairperson of the State Authority;

(c) the Chairperson of the State Executive Committee, *ex officio*.

(3) The Chairperson of the State Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the State Authority.

(4) The Chairperson of the State Executive Committee shall be the Chief Executive Officer of the State Authority, *ex officio*:

Provided that in the case of a Union territory having Legislative Assembly, except the Union territory of Delhi, the Chief Minister shall be the Chairperson of the Authority established under this section and in case of other Union territories, the Lieutenant Governor or the Administrator shall be the Chairperson of that Authority:

Provided further that the Lieutenant Governor of the Union territory of Delhi shall be the Chairperson and the Chief Minister thereof shall be the Vice-Chairperson of the State Authority.

(5) The term of office and conditions of service of members of the State Authority shall be such as may be prescribed.

15. (1) The State Authority shall meet as and when necessary and at such time and place as the Chairperson of the State Authority may think fit.

(2) The Chairperson of the State Authority shall preside over the meetings of the State Authority.

(3) If for any reason, the Chairperson of the State Authority is unable to attend the meeting of the State Authority, the Vice-Chairperson of the State Authority shall preside at the meeting.

16. The State Government shall provide the State Authority with such officers, consultants and employees, as it considers necessary, for carrying out the functions of the State Authority.

17. (1) A State Authority may, as and when it considers necessary, constitute an advisory committee, consisting of experts in the field of disaster management and having practical experience of disaster management to make recommendations on different aspects of disaster management.

(2) The members of the advisory committee shall be paid such allowances as may be prescribed by the State Government.

18. (1) Subject to the provisions of this Act, a State Authority shall have the responsibility for laying down policies and plans for disaster management in the State.

(2) Without prejudice to the generality of provisions contained in sub-section (1), the State Authority may—

(a) lay down the State disaster management policy;

(b) approve the State Plan in accordance with the guidelines laid down by the National Authority;

(c) approve the disaster management plans prepared by the departments of the Government of the State;

(d) lay down guidelines to be followed by the departments of the Government of the State for the purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

(e) coordinate the implementation of the State Plan;

(f) recommend provision of funds for mitigation and preparedness measures;

(g) review the development plans of the different departments of the State and ensure that prevention and mitigation measures are integrated therein;

(h) review the measures being taken for mitigation, capacity building and preparedness by the departments of the Government of the State and issue such guidelines as may be necessary.

(3) The Chairperson of the State Authority shall, in the case of emergency, have power to exercise all or any of the powers of the State Authority but the exercise of such powers shall be subject to *ex post facto* ratification of the State Authority.

19. The State Authority shall lay down detailed guidelines for providing standards of relief to persons affected by disaster in the State:

Provided that such standards shall in no case be less than the minimum standards in the guidelines laid down by the National Authority in this regard.

20. (1) The State Government shall, immediately after issue of notification under sub-section (1) of section 14, constitute a State Executive Committee to assist the State Authority in the performance of its functions and to coordinate action in accordance with the guidelines laid down by the State Authority and ensure the compliance of directions issued by the State Government under this Act.

(2) The State Executive Committee shall consist of the following members, namely:—

(a) the Chief Secretary to the State Government, who shall be Chairperson, *ex officio*;

(b) four Secretaries to the Government of the State of such departments as the State Government may think fit, *ex officio*.

(3) The Chairperson of the State Executive Committee shall exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the State Authority.

(4) The procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the State Government.

21. (1) The State Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for efficient discharge of its functions.

(2) The State Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the State Government.

22. (1) The State Executive Committee shall have the responsibility for implementing the National Plan and State Plan and act as the coordinating and monitoring body for management of disaster in the State.

(2) Without prejudice to the generality of the provisions of sub-section (1), the State Executive Committee may—

(a) coordinate and monitor the implementation of the National Policy, the National Plan and the State Plan;

(b) examine the vulnerability of different parts of the State to different forms of disasters and specify measures to be taken for their prevention or mitigation;

(c) lay down guidelines for preparation of disaster management plans by the departments of the Government of the State and the District Authorities;

(d) monitor the implementation of disaster management plans prepared by the departments of the Government of the State and District Authorities;

(e) monitor the implementation of the guidelines laid down by the State Authority for integrating of measures for prevention of disasters and mitigation by the departments in their development plans and projects;

(f) evaluate preparedness at all governmental or non-governmental levels to respond to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(g) coordinate response in the event of any threatening disaster situation or disaster;

(h) give directions to any Department of the Government of the State or any other authority or body in the State regarding actions to be taken in response to any threatening disaster situation or disaster;

(i) promote general education, awareness and community training in regard to the forms of disasters to which different parts of the State are vulnerable and the measures that may be taken by such community to prevent the disaster, mitigate and respond to such disaster;

(j) advise, assist and coordinate the activities of the Departments of the Government of the State, District Authorities, statutory bodies and other governmental and non-governmental organisations engaged in disaster management;

(k) provide necessary technical assistance or give advice to District Authorities and local authorities for carrying out their functions effectively;

(l) advise the State Government regarding all financial matters in relation to disaster management;

(m) examine the construction, in any local area in the State and, if it is of the opinion that the standards laid for such construction for the prevention of disaster is not being or has not been followed, may direct the District Authority or the local authority, as the case may be, to take such action as may be necessary to secure compliance of such standards;

(n) provide information to the National Authority relating to different aspects of disaster management;

(o) lay down, review and update State level response plans and guidelines and ensure that the district level plans are prepared, reviewed and updated;

(p) ensure that communication systems are in order and the disaster management drills are carried out periodically;

(q) perform such other functions as may be assigned to it by the State Authority or as it may consider necessary.

23. (1) There shall be a plan for disaster management for every State to be called the State Disaster Management Plan.

(2) The State Plan shall be prepared by the State Executive Committee having regard to the guidelines laid down by the National Authority and after such consultation with local authorities, district authorities and the people's representatives as the State Executive Committee may deem fit.

(3) The State Plan prepared by the State Executive Committee under sub-section (2) shall be approved by the State Authority.

(4) The State Plan shall include,—

(a) the vulnerability of different parts of the State to different forms of disasters;

(b) the measures to be adopted for prevention and mitigation of disasters;

(c) the manner in which the mitigation measures shall be integrated with the development plans and projects;

(d) the capacity-building and preparedness measures to be taken;

(e) the roles and responsibilities of each Department of the Government of the State in relation to the measures specified in clauses (b), (c) and (d) above;

(f) the roles and responsibilities of different Departments of the Government of the State in responding to any threatening disaster situation or disaster.

(5) The State Plan shall be reviewed and updated annually.

(6) Appropriate provisions shall be made by the State Government for financing for the measures to be carried out under the State Plan.

(7) Copies of the State Plan referred to in sub-sections (2) and (5) shall be made available to the Departments of the Government of the State and such Departments shall draw up their own plans in accordance with the State Plan.

24. For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the State Executive Committee may—

(a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;

(b) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(c) remove debris, conduct search and carry out rescue operations;

(d) provide shelter, food, drinking water, essential provisions, healthcare and services in accordance with the standards laid down by the National Authority and State Authority;

(e) give direction to the concerned Department of the Government of the State, any District Authority or other authority, within the local limits of the State to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;

(f) require any department of the Government of the State or any other body or authority or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;

(g) require experts and consultants in the field of disasters to provide advice and assistance for rescue and relief;

(h) procure exclusive or preferential use of amenities from any authority or person as and when required;

(i) construct temporary bridges or other necessary structures and demolish unsafe structures which may be hazardous to public;

(j) ensure that non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(k) disseminate information to public to deal with any threatening disaster situation or disaster;

(l) take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.

CHAPTER IV

DISTRICT DISASTER MANAGEMENT AUTHORITY

25. (1) Every State Government shall, as soon as may be after issue of notification under sub-section (1) of section 14, by notification in the Official Gazette, establish a District Disaster Management Authority for every district in the State with such name as may be specified in that notification.

(2) The District Authority shall consist of the Chairperson and such number of other members, not exceeding seven, as may be prescribed by the State Government, and unless the rules otherwise provide, it shall consist of the following, namely:—

(a) the Collector or District Magistrate or Deputy Commissioner, as the case may be, of the district who shall be Chairperson, *ex officio*;

(b) the elected representative of the local authority who shall be the co-Chairperson, *ex officio*:

Provided that in the Tribal Areas, as referred to in the Sixth Schedule to the Constitution, the Chief Executive Member of the district council of autonomous district, shall be the co-Chairperson, *ex officio*;

(c) the Chief Executive Officer of the District Authority, *ex officio*;

(d) the Superintendent of Police, *ex officio*;

(e) the Chief Medical Officer of the district, *ex officio*;

(f) not exceeding two other district level officers, to be appointed by the State Government.

(3) In any district where zila parishad exists, the Chairperson thereof shall be the co-Chairperson of the District Authority.

(4) The State Government shall appoint an officer not below the rank of Additional Collector or Additional District Magistrate or Additional Deputy Commissioner, as the case may be, of the district to be the Chief Executive Officer of the District Authority to exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the District Authority.

26. (1) The Chairperson of the District Authority shall, in addition to presiding over the meetings of the District Authority, exercise and discharge such powers and functions of the District Authority as the District Authority may delegate to him.

(2) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to *ex post facto* ratification of the District Authority.

(3) The District Authority or the Chairperson of the District Authority may, by general or special order, in writing, delegate such of its or his powers and functions, under sub-section (1) or (2), as the case may be, to the Chief Executive Officer of the District Authority, subject to such conditions and limitations, if any, as it or he deems fit.

27. The District Authority shall meet as and when necessary and at such time and place as the Chairperson may think fit.

28. (1) The District Authority may, as and when it considers necessary, constitute one or more advisory committees and other committees for the efficient discharge of its functions.

(2) The District Authority shall, from amongst its members, appoint the Chairperson of the Committee referred to in sub-section (1).

(3) Any person associated as an expert with any committee or sub-committee constituted under sub-section (1) may be paid such allowances as may be prescribed by the State Government.

29. The State Government shall provide the District Authority with such officers, consultants and other employees as it considers necessary for carrying out the functions of District Authority.

30. (1) The District Authority shall act as the district planning, coordinating and implementing body for disaster management and take all measures for the purposes of disaster management in the district in accordance with the guidelines laid down by the National Authority and the State Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1), the District Authority may—

(i) prepare a disaster management plan including district response plan for the district;

(ii) coordinate and monitor the implementation of the National Policy, State Policy, National Plan, State Plan and District Plan;

(iii) ensure that the areas in the district vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the Government at the district level as well as by the local authorities;

(iv) ensure that the guidelines for prevention of disasters, mitigation of its effects, preparedness and response measures as laid down by the National Authority and the State Authority are followed by all departments of the Government at the district level and the local authorities in the district;

(v) give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;

(vi) lay down guidelines for prevention of disaster management plans by the department of the Government at the districts level and local authorities in the district;

(vii) monitor the implementation of disaster management plans prepared by the Departments of the Government at the district level;

(viii) lay down guidelines to be followed by the Departments of the Government at the district level for purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

(ix) monitor the implementation of measures referred to in clause (viii);

(x) review the state of capabilities for responding to any disaster or threatening disaster situation in the district and give directions to the relevant departments or authorities at the district level for their upgradation as may be necessary;

(xi) review the preparedness measures and give directions to the concerned departments at the district level or other concerned authorities where necessary for bringing the preparedness measures to the levels required for responding effectively to any disaster or threatening disaster situation;

(xii) organise and coordinate specialised training programmes for different levels of officers, employees and voluntary rescue workers in the district;

(xiii) facilitate community training and awareness programmes for prevention of disaster or mitigation with the support of local authorities, governmental and non-governmental organisations;

(xiv) set up, maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to public;

(xv) prepare, review and update district level response plan and guidelines;

(xvi) coordinate response to any threatening disaster situation or disaster;

(xvii) ensure that the Departments of the Government at the district level and the local authorities prepare their response plans in accordance with the district response plan;

(xviii) lay down guidelines for, or give direction to, the concerned Department of the Government at the district level or any other authorities within the local limits of the district to take measures to respond effectively to any threatening disaster situation or disaster;

(xix) advise, assist and coordinate the activities of the Departments of the Government at the district level, statutory bodies and other governmental and non-governmental organisations in the district engaged in the disaster management;

(xx) coordinate with, and give guidelines to, local authorities in the district to ensure that measures for the prevention or mitigation of threatening disaster situation or disaster in the district are carried out promptly and effectively;

(xxi) provide necessary technical assistance or give advise to the local authorities in the district for carrying out their functions;

(xxii) review development plans prepared by the Departments of the Government at the district level, statutory authorities or local authorities with a view to make necessary provisions therein for prevention of disaster or mitigation;

(xxiii) examine the construction in any area in the district and, if it is of the opinion that the standards for the prevention of disaster or mitigation laid down for such construction is not being or has not been followed, may direct the concerned authority to take such action as may be necessary to secure compliance of such standards;

(xxiv) identify buildings and places which could, in the event of any threatening disaster situation or disaster, be used as relief centers or camps and make arrangements for water supply and sanitation in such buildings or places;

(xxv) establish stockpiles of relief and rescue materials or ensure preparedness to make such materials available at a short notice;

(xxvi) provide information to the State Authority relating to different aspects of disaster management;

(xxvii) encourage the involvement of non-governmental organisations and voluntary social-welfare institutions working at the grassroots level in the district for disaster management;

(xxviii) ensure communication systems are in order, and disaster management drills are carried out periodically;

(xxix) perform such other functions as the State Government or State Authority may assign to it or as it deems necessary for disaster management in the District.

31. (1) There shall be a plan for disaster management for every district of the State.

(2) The District Plan shall be prepared by the District Authority, after consultation with the local authorities and having regard to the National Plan and the State Plan, to be approved by the State Authority.

(3) The District Plan shall include—

(a) the areas in the district vulnerable to different forms of disasters;

(b) the measures to be taken, for prevention and mitigation of disaster, by the Departments of the Government at the district level and local authorities in the district;

(c) the capacity-building and preparedness measures required to be taken by the Departments of the Government at the district level and the local authorities in the district to respond to any threatening disaster situation or disaster;

(d) the response plans and procedures, in the event of a disaster, providing for—

(i) allocation of responsibilities to the Departments of the Government at the district level and the local authorities in the district;

(ii) prompt response to disaster and relief thereof;

(iii) procurement of essential resources;

(iv) establishment of communication links; and

(v) the dissemination of information to the public;

(e) such other matters as may be required by the State Authority.

(4) The District Plan shall be reviewed and updated annually.

(5) The copies of the District Plan referred to in sub-sections (2) and (4) shall be made available to the Departments of the Government in the district.

(6) The District Authority shall send a copy of the District Plan to the State Authority which shall forward it to the State Government.

(7) The District Authority shall, review from time to time, the implementation of the Plan and issue such instructions to different departments of the Government in the district as it may deem necessary for the implementation thereof.

32. Every office of the Government of India and of the State Government at the district level and the local authorities shall, subject to the supervision of the District Authority, —

(a) prepare a disaster management plan setting out the following, namely:—

(i) provisions for prevention and mitigation measures as provided for in the District Plan and as is assigned to the department or agency concerned;

(ii) provisions for taking measures relating to capacity-building and preparedness as laid down in the District Plan;

(iii) the response plans and procedures, in the event of, any threatening disaster situation or disaster;

(b) coordinate the preparation and the implementation of its plan with those of the other organisations at the district level including local authority, communities and other stakeholders;

(c) regularly review and update the plan; and

(d) submit a copy of its disaster management plan, and of any amendment thereto, to the District Authority.

33. The District Authority may by order require any officer or any Department at the district level or any local authority to take such measures for the prevention or mitigation of disaster, or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

34. For the purpose of assisting, protecting or providing relief to the community, in response to any threatening disaster situation or disaster, the District Authority may—

(a) give directions for the release and use of resources available with any Department of the Government and the local authority in the district;

(b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;

(c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(d) remove debris, conduct search and carry out rescue operations;

(e) provide shelter, food, drinking water and essential provisions, healthcare and services;

(f) establish emergency communication systems in the affected area;

(g) make arrangements for the disposal of the unclaimed dead bodies;

(h) recommend to any Department of the Government of the State or any authority or body under that Government at the district level to take such measures as are necessary in its opinion;

(i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;

(j) procure exclusive or preferential use of amenities from any authority or person;

(k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to public or aggravate the effects of the disaster;

(l) ensure that the non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(m) take such other steps as may be required or warranted to be taken in such a situation.

CHAPTER V

MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

35. (1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;

(b) ensure the integration of measures for prevention of disasters and mitigation by Ministries or Departments of the Government of India into their development plans and projects;

(c) ensure appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India;

(d) ensure that the Ministries or Departments of the Government of India take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;

(e) cooperation and assistance to State Governments, as requested by them or otherwise deemed appropriate by it;

(f) deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act;

(g) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;

(h) establish institutions for research, training, and developmental programmes in the field of disaster management;

(i) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Central Government may extend such support to other countries affected by major disaster as it may deem appropriate.

36. It shall be the responsibility of every Ministry or Department of the Government of India to—

(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority;

(b) integrate into its development plans and projects, the measures for prevention or mitigation of disasters in accordance with the guidelines laid down by the National Authority;

(c) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the guidelines of the National Authority or the directions of the National Executive Committee in this behalf;

(d) review the enactments administered by it, its policies, rules and regulations, with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;

- (e) allocate funds for measures for prevention of disaster, mitigation, capacity-building and preparedness;
- (f) provide assistance to the National Authority and State Governments for—
 - (i) drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;
 - (ii) carrying out rescue and relief operations in the affected area;
 - (iii) assessing the damage from any disaster;
 - (iv) carrying out rehabilitation and reconstruction;
- (g) make available its resources to the National Executive Committee or a State Executive Committee for the purposes of responding promptly and effectively to any threatening disaster situation or disaster, including measures for—
 - (i) providing emergency communication in a vulnerable or affected area;
 - (ii) transporting personnel and relief goods to and from the affected area;
 - (iii) providing evacuation, rescue, temporary shelter or other immediate relief;
 - (iv) setting up temporary bridges, jetties and landing places;
 - (v) providing, drinking water, essential provisions, healthcare, and services in an affected area;
- (h) take such other actions as it may consider necessary for disaster management.

37. (1) Every Ministry or Department of the Government of India shall—

- (a) prepare a disaster management plan specifying the following particulars, namely:—
 - (i) the measures to be taken by it for prevention and mitigation of disasters in accordance with the National Plan;
 - (ii) the specifications regarding integration of mitigation measures in its development plans in accordance with the guidelines of the National Authority and the National Executive Committee;
 - (iii) its roles and responsibilities in relation to preparedness and capacity-building to deal with any threatening disaster situation or disaster;
 - (iv) its roles and responsibilities in regard to promptly and effectively responding to any threatening disaster situation or disaster;
 - (v) the present status of its preparedness to perform the roles and responsibilities specified in sub-clauses (iii) and (iv);
 - (vi) the measures required to be taken in order to enable it to perform its responsibilities specified in sub-clauses (iii) and (iv);
- (b) review and update annually the plan referred to in clause (a);
- (c) forward a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the Central Government which Government shall forward a copy thereof to the National Authority for its approval.

(2) Every Ministry or Department of the Government of India shall—

- (a) make, while preparing disaster management plan under clause (a) of sub-section (1), provisions for financing the activities specified therein;

(b) furnish a status report regarding the implementation of the plan referred to in clause (a) of sub-section (1) to the National Authority, as and when required by it.

38. (1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

(2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions of different departments of the Government of the State, the State Authority, District Authorities, local authority and other non-governmental organisations;

(b) cooperation and assistance in the disaster management to the National Authority and National Executive Committee, the State Authority and the State Executive Committee, and the District Authorities;

(c) cooperation with, and assistance to, the Ministries or Departments of the Government of India in disaster management, as requested by them or otherwise deemed appropriate by it;

(d) allocation of funds for measures for prevention of disaster, mitigation, capacity-building and preparedness by the departments of the Government of the State in accordance with the provisions of the State Plan and the District Plans;

(e) ensure that the integration of measures for prevention of disaster or mitigation by the departments of the Government of the State in their development plans and projects;

(f) integrate in the State development plan, measures to reduce or mitigate the vulnerability of different parts of the State to different disasters;

(g) ensure the preparation of disaster management plans by different departments of the State in accordance with the guidelines laid down by the National Authority and the State Authority;

(h) establishment of adequate warning systems up to the level of vulnerable communities;

(i) ensure that different departments of the Government of the State and the District Authorities take appropriate preparedness measures;

(j) ensure that in a threatening disaster situation or disaster, the resources of different departments of the Government of the State are made available to the National Executive Committee or the State Executive Committee or the District Authorities, as the case may be, for the purposes of effective response, rescue and relief in any threatening disaster situation or disaster;

(k) provide rehabilitation and reconstruction assistance to the victims of any disaster; and

(l) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act.

39. It shall be the responsibility of every department of the Government of a State to—

(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;

(b) integrate into its development plans and projects, the measures for prevention of disaster and mitigation;

(c) allocate funds for prevention of disaster, mitigation, capacity-building and preparedness;

(d) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the State Plan, and in accordance with the guidelines or directions of the National Executive Committee and the State Executive Committee;

(e) review the enactments administered by it, its policies, rules and regulations with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;

(f) provide assistance, as required, by the National Executive Committee, the State Executive Committee and District Authorities, for—

(i) drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;

(ii) assessing the damage from any disaster;

(iii) carrying out rehabilitation and reconstruction;

(g) make provision for resources in consultation with the State Authority for the implementation of the District Plan by its authorities at the district level;

(h) make available its resources to the National Executive Committee or the State Executive Committee or the District Authorities for the purposes of responding promptly and effectively to any disaster in the State, including measures for—

(i) providing emergency communication with a vulnerable or affected area;

(ii) transporting personnel and relief goods to and from the affected area;

(iii) providing evacuation, rescue, temporary shelter or other immediate relief;

(iv) carrying out evacuation of persons or live-stock from an area of any threatening disaster situation or disaster;

(v) setting up temporary bridges, jetties and landing places;

(vi) providing drinking water, essential provisions, healthcare and services in an affected area;

(i) such other actions as may be necessary for disaster management.

40. (1) Every department of the State Government, in conformity with the guidelines laid down by the State Authority, shall—

(a) prepare a disaster management plan which shall lay down the following :—

(i) the types of disasters to which different parts of the State are vulnerable;

(ii) integration of strategies for the prevention of disaster or the mitigation of its effects or both with the development plans and programmes by the department;

(iii) the roles and responsibilities of the department of the State in the event of any threatening disaster situation or disaster and emergency support function it is required to perform;

(iv) present status of its preparedness to perform such roles or responsibilities or emergency support function under sub-clause (iii);

(v) the capacity-building and preparedness measures proposed to be put into effect in order to enable the Ministries or Departments of the Government of India to discharge their responsibilities under section 37;

(b) annually review and update the plan referred to in clause (a); and

(c) furnish a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the State Authority.

(2) Every department of the State Government, while preparing the plan under sub-section (1), shall make provisions for financing the activities specified therein.

(3) Every department of the State Government shall furnish an implementation status report to the State Executive Committee regarding the implementation of the disaster management plan referred to in sub-section (1).

CHAPTER VI

LOCAL AUTHORITIES

41. (1) Subject to the directions of the District Authority, a local authority shall—

(a) ensure that its officers and employees are trained for disaster management;

(b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster;

(c) ensure all construction projects under it or within its jurisdiction conform to the standards and specifications laid down for prevention of disasters and mitigation by the National Authority, State Authority and the District Authority;

(d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the State Plan and the District Plan.

(2) The local authority may take such other measures as may be necessary for the disaster management.

CHAPTER VII

NATIONAL INSTITUTE OF DISASTER MANAGEMENT

42. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be constituted an institute to be called the National Institute of Disaster Management.

(2) The National Institute of Disaster Management shall consist of such number of members as may be prescribed by the Central Government.

(3) The term of office of, and vacancies among, members of the National Institute of Disaster Management and manner of filling such vacancies shall be such as may be prescribed.

(4) There shall be a governing body of the National Institute of Disaster Management which shall be constituted by the Central Government from amongst the members of the National Institute of Disaster Management in such manner as may be prescribed.

(5) The governing body of the National Institute of Disaster Management shall exercise such powers and discharge such functions as may be prescribed by regulations.

(6) The procedure to be followed in exercise of its powers and discharge of its functions by the governing body, and the term of office of, and the manner of filling vacancies among the members of the governing body, shall be such as may be prescribed by regulations.

(7) Until the regulations are made under this section, the Central Government may make such regulations; and any regulation so made may be altered or rescinded by the National Institute of Disaster Management in exercise of its powers.

(8) Subject to the provisions of this Act, the National Institute of Disaster Management shall function within the broad policies and guidelines laid down by the National Authority and be responsible for planning and promoting training and research in the area of disaster

management, documentation and development of national level information base relating to disaster management policies, prevention mechanisms and mitigation measures.

(9) Without prejudice to the generality of the provisions contained in sub-section (8), the National Institute, for the discharge of its functions, may –

(a) develop training modules, undertake research and documentation in disaster management and organise training programmes;

(b) formulate and implement a comprehensive human resource development plan covering all aspects of disaster management;

(c) provide assistance in national level policy formulation;

(d) provide required assistance to the training and research institutes for development of training and research programmes for stakeholders including Government functionaries and undertake training of faculty members of the State level training institutes;

(e) provide assistance to the State Governments and State training institutes in the formulation of State level policies, strategies, disaster management framework and any other assistance as may be required by the State Governments or State training institutes for capacity-building of stakeholders, Government including its functionaries, civil society members, corporate sector and people's elected representatives;

(f) develop educational materials for disaster management including academic and professional courses;

(g) promote awareness among stakeholders including college or school teachers and students, technical personnel and others associated with multi-hazard mitigation, preparedness and response measures;

(h) undertake, organise and facilitate study courses, conferences, lectures, seminars within and outside the country to promote the aforesaid objects;

(i) undertake and provide for publication of journals, research papers and books and establish and maintain libraries in furtherance of the aforesaid objects;

(j) do all such other lawful things as are conducive or incidental to the attainment of the above objects; and

(k) undertake any other function as may be assigned to it by the Central Government.

43. The Central Government shall provide the National Institute of Disaster Management with such officers, consultants and other employees, as it considers necessary, for carrying out its functions.

CHAPTER VIII

NATIONAL DISASTER RESPONSE FORCE

44. (1) There shall be constituted a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

(2) Subject to the provisions of this Act, the Force shall be constituted in such manner and, the conditions of service of the members of the Force, including disciplinary provisions therefor, be such as may be prescribed.

45. The general superintendence, direction and control of the Force shall be vested and exercised by the National Authority and the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

46. (1) The Central Government may, by notification in the Official Gazette, constitute a fund to be called the National Disaster Response Fund for meeting any threatening disaster situation or disaster and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide;

(b) any grants that may be made by any person or institution for the purpose of disaster management.

(2) The National Disaster Response Fund shall be made available to the National Executive Committee to be applied towards meeting the expenses for emergency response, relief and rehabilitation in accordance with the guidelines laid down by the Central Government in consultation with the National Authority.

47. (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

(2) The National Disaster Mitigation Fund shall be applied by the National Authority.

48. (1) The State Government shall, immediately after notifications issued for constituting the State Authority and the District Authorities, establish for the purposes of this Act the following funds, namely:—

(a) the fund to be called the State Disaster Response Fund;

(b) the fund to be called the District Disaster Response Fund;

(c) the fund to be called the State Disaster Mitigation Fund;

(d) the fund to be called the District Disaster Mitigation Fund.

(2) The State Government shall ensure that the funds established—

(i) under clause (a) of sub-section (1) is available to the State Executive Committee;

(ii) under sub-clause (c) of sub-section (1) is available to the State Authority;

(iii) under clauses (b) and (d) of sub-section (1) are available to the District Authority.

49. (1) Every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

(2) The provisions of sub-section (1) shall, *mutatis mutandis*, apply to departments of the Government of the State.

50. Where by reason of any threatening disaster situation or disaster, the National Authority or the State Authority or the District Authority is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief,—

(a) it may authorise the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders shall be deemed to be waived;

(b) a certificate about utilisation of provisions or materials by the controlling officer authorised by the National Authority, State Authority or District Authority, as the case may be, shall be deemed to be a valid document or voucher for the purpose of accounting of emergency, procurement of such provisions or materials.

CHAPTER X

OFFENCES AND PENALTIES

51. Whoever, without reasonable cause—

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. (1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government 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 officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. (1) Where an offence under this Act has been committed by a company or body corporate, 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 contravention and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was 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 also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose 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.

59. No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or

(b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.”

CHAPTER XI

MISCELLANEOUS

61. While providing compensation and relief to the victims of disaster, there shall be no discrimination on the ground of sex, caste, community, descent or religion.

62. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Central Government to issue direction in writing to the Ministries or Departments of the Government of India, or the National Executive Committee or the State Government, State Authority, State Executive Committee, statutory bodies or any of its officers or employees, as the case may be, to facilitate or assist in the disaster management and such Ministry or Department or Government or Authority, Executive Committee, statutory body, officer or employee shall be bound to comply with such direction.

63. Any officer or authority of the Union or a State, when requested by the National Executive Committee, any State Executive Committee or District Authority or any person authorised by such Committee or Authority in this behalf, shall make available to that Committee or authority or person, such officers and employees as requested for, to perform any of the functions in connection with the prevention of disaster or mitigation or rescue or relief work.

64. Subject to the provisions of this Act, if it appears to the National Executive Committee, State Executive Committee or the District Authority, as the case may be, that provisions of any rule, regulation, notification, guideline, instruction, order, scheme or bye-laws, as the case may be, are required to be made or amended for the purposes of prevention of disasters or the mitigation thereof, it may require the amendment of such rules, regulation, notification, guidelines, instruction, order, scheme or bye-laws, as the case may be, for that purpose, and the appropriate department or authority shall take necessary action to comply with the requirements.

65. (1) If it appears to the National Executive Committee, State Executive Committee or District Authority or any officer as may be authorised by it in this behalf that—

- (a) any resources with any authority or person are needed for the purpose of prompt response;
- (b) any premises are needed or likely to be needed for the purpose of rescue operations; or
- (c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction,

such authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section,—

- (a) "resources" includes men and material resources;
- (b) "services" includes facilities;
- (c) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;
- (d) "vehicle" means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

66. (1) Whenever any Committee, Authority or officer referred to in sub-section (1) of section 65, in pursuance of that section requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if as consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the thirty days to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government or the State Government, as the case may be, to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression “person interested” means the person who was in actual possession of the premises requisitioned under section 65 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever any Committee, Authority or officer, referred to in sub-section (1) of section 65 in pursuance of that section requisitions any vehicle, there shall be paid to the owner thereof compensation the amount of which shall be determined by the Central Government or the State Government, as the case may be, on the basis of the fares or rates prevailing in the locality for the hire of such vehicle:

Provided that where the owner of such vehicle being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government or the State Government, as the case may be, in this behalf may decide.

67. The National Authority, the State Authority, or a District Authority may recommend to the Government to give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said means of communication and media as designated shall comply with such direction.

68. Every order or decision of the National Authority or the National Executive Committee, the State Authority, or the State Executive Committee or the District Authority, shall be authenticated by such officers of the National Authority or the National Executive Committee or, the State Executive Committee, or the District Authority, as may be authorised by it in this behalf.

69. The National Executive Committee, State Executive Committee, as the case may be, by general or special order in writing, may delegate to the Chairperson or any other member or to any officer, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

70. (1) The National Authority shall prepare once every 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 within one month of its receipt.

(2) The State Authority shall prepare once in every 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 State Government and that Government shall cause the same to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

71. No court (except the Supreme Court or a High Court) shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Central Government, National Authority, State Government, State Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.

72. The provisions of this Act, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

73. No suit or prosecution or other proceeding shall lie in any court against the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any officer or employee of the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any person working for on behalf of such Government or authority in respect of any work done or purported to have been done or intended to be done in good faith by such authority or Government or such officer or employee or such person under the provisions of this Act or the rules or regulations made thereunder.

74. Officers and employees of the Central Government, National Authority, National Executive Committee, State Government, State Authority, State Executive Committee or District Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.

75. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(a) the composition and number of the members of the National Authority under sub-section (2), and the term of office and conditions of service of members of the National Authority under sub-section (4), of section 3;

(b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 7;

(c) the powers and functions of the Chairperson of the National Executive Committee under sub-section (3) of section 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 8;

(d) allowances to be paid to the persons associated with the sub-committee constituted by the National Executive Committee under sub-section (3) of section 9;

(e) the number of members of the National Institute of Disaster Management under sub-section (2), the term of the office and vacancies among members and the manner of filling such vacancies under sub-section (3) and the manner of constituting the Governing Body of the National Institute of Disaster Management under sub-section (4) of section 42;

(f) the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-section (2) of section 44;

(g) the manner in which notice of the offence and of the intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government or the other authority or officer under clause (b) of section 60;

(h) the form in which and the time within which annual report is to be prepared under section 70;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

76. (1) The National Institute of Disaster Management, with the previous approval of the Central Government may, by notification in the Official Gazette, make regulations consistent with 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 power, such regulations may provide for all or any of the following matters, namely:—

(a) powers and functions to be exercised and discharged by the governing body;

(b) procedure to be followed by the governing body in exercise of the powers and discharge of its functions;

(c) any other matter for which under this Act provision may be made by the regulations.

77. Every rule made by the Central Government and every regulation made by the National Institute of Disaster Management 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 of 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.

78. (1) The State 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 power, such rules may provide for all or any of the following matters, namely:—

(a) the composition and number of the members of the State Authority under sub-section (2), and the term of office and conditions of service of the members of the State Authority under sub-section (5), of section 14;

(b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 17;

(c) the powers and functions of the Chairperson of the State Executive Committee under sub-section (3), and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 20;

(d) allowances to be paid to the persons associated with the sub-committee constituted by the State Executive Committee under sub-section (3) of section 21;

(e) the composition and the number of members of the District Authority under sub-section (2), and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-section (3) of section 25;

(f) allowances payable to the persons associated with any committee constituted by the District Authority as experts under sub-section (3) of section 28;

(g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House before that House.

79. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government or the State Government, as the case may be, by notification in the Official Gazette, make order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

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

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

T. K. VISWANATHAN,
Secy. to the Govt. of India.



**INDIAN COMMERCIAL PILOTS'
ASSOCIATION**



INDIAN PILOTS' GUILD

3rd April 2020

To,
 Shri. Rajiv Bansal
 Chairman & Managing Director
 Air India Ltd
 New Delhi

Sub: Arbitrary pay cut on allowances amidst Covid-19 pandemic

Sir,

This is to inform you that we, the flying crew of Air India feel immensely let down by the self-serving approach of the Executive Management Committee in the name of cost cutting measures.

1. This is not in line with the Honorable Prime Minister's address to the nation on 19th of March in which he has categorically appreciated the selfless service of airline crew who have been pivotal in bringing back home stranded citizens from around the world. He had also appealed to act in a humane manner and urged the employers not to enforce pay cut for employees.
2. Ministry of Labour and Employment through a letter dated 20th March 2020 to the President of All India Organization of Employers has advised all employers of public/ private establishments not to terminate their employees or reduce their wages.
3. Govt. of Maharashtra, through the Office of the Commissioner of Labour has issued similar advisory via letter dated 20th March 2020.

The Executive Management Committee has completely disregarded the appeal made by the Hon'ble Prime Minister and the advisory from Ministry of Labour and Employment. **Air India Ltd being a Government owned PSU has an obligation to follow the directions of the Government of India and should lead by example to other Indian Corporates.**

By effecting a 10% cut on allowances for all employees, the category that has been affected the most are pilots. Flying related allowances of pilots' wages



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constitute to 70% of the gross emoluments. By effecting a cut only on allowances, the Directors and senior management executives have deviously exempted themselves from any meaningful austerity cut as their allowances are extremely small while pilots and cabin crew who are the frontline warriors flying and risking their lives, are forced to bear the maximum cut. The fact remains that the core of an airline is the airplanes and the staff who keep them flying. Every other department exists to support them in this endeavor. When the aircraft's are not flying, it speaks volume about the approach to cost-cutting when the brunt of austerity measures are thrust upon the most essential and hardworking employees.

Many flying crew are held at home quarantine/self-quarantine after operating international and special flights. One of our crew has been diagnosed Covid positive and is hospitalized. We are doing our bit for the company and request you to ensure that every other executive from other departments do the same.

We whole heartedly support operating flights for Essential Services (ESMA) to ensure the delivery of certain services in order not to affect the normal life of our citizens and to rescue Indians stuck in various parts of the world. We fail to understand Air India's decision to enter into a contract with other countries to repatriate their citizens on commercial charters which does not come under the purview of ESMA. On the one hand, our Government is implementing stringent curfews and social distancing measures and on the other, the airline is planning needless extra flights compounding exposure risk to us, our families and communities. With this backdrop, we need support from the company to keep performing our duties and look after our families, now more than ever. As you are aware, the flying allowance is not paid on-time. While all the other employees are paid in full, flying crew alone are made to bear the brunt with delayed flying allowance. Implementation of sham austerity measures to cut the flying allowances on top of all this would be adding insult to injury.

Under your leadership, we are hopeful you will treat all your employees equally. **The pay cut on Allowance is UNEQUAL, and NOT acceptable to us.** We request you to advise the senior executive management to rise above self during these testing times, to draw up fair cost cutting measures and not to manipulate the system to safeguard their salaries by merely burdening the frontline soldiers of the National Carrier.



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We are open for discussions on possible alternatives. We hereby seek your urgent intervention in the matter.

Jai Hind

Thanking you,

Yours faithfully,

Capt. T. Praveen Keerthi
General Secretary

Capt. Kanav Hingorani
General Secretary

CC: Director Finance, Air India Ltd
CC: Director Personnel, Air India Ltd
CC: General Manager (IR), Air India Ltd
CC: Executive Director Operations, Air India Ltd



Transport Building, 1st Floor, Near Operations Department, Old Airport, Kalina, Mumbai - 400 029, India.

Ref No.: IPG/A/2/OFF

Date: 03rd May 2020

To,

1. The District Magistrate & Collector,

Mumbai.

collector.mumbaicity@maharashtra.gov.in

2. Deputy Commissioner of Police,

Zone 8, Mumbai

dcpzone8-mum@mahapolice.gov.in

REF: ILLEGAL DEDUCTION OF WAGES DURING COVID-19 PANDEMIC

Respected Sir,

1. We are a registered Trade Union representing the pilots of erstwhile Air India Ltd with registered office in Air India Operations, Old Airport, Kalina, Mumbai.
2. We were most shocked to find that a 10% deduction has been made from the monthly wage packet of all our members for the month of March 2020 (which includes days worked prior to the Lockdown). The wage slips issued lists the cut under the “Deductions” as “**COVID-19 Pay Cut**”. It appears that on 20th March an Office Order was issued by Air India “with the approval of the CMD”, announcing a 10% cut in allowances of all employees, except cabin crew, for 3 months on account of the COVID -19 crisis. (It may be noted that allowances form around 70% of our members’ overall wage package).
3. Be that as it may, on the very same day the Central Government through the Ministry of Labour issued directives to employers that no worker’s wage should be cut on account

of the Pandemic. This was issued even prior to the Lockdown and stated that the Government's instructions for people to remain at home during the Pandemic will constrain many employees from attending duty, and that not only should nobody's services be terminated in this period, but no worker's wages should be cut or deducted because he/she could not attend duties. It was stated that to deduct wages in this period would be to "only deepen the crisis, weaken the financial condition of the worker as also hamper his/her morale to combat the epidemic". Each Chief Secretary was instructed to issue all necessary instructions in this regard to all employers / establishments in her jurisdiction. A copy of the said Circular is enclosed herewith.

4. After the Lockdown was imposed, the Ministry of Home Affairs issued an Order under the powers conferred under section 10(2)(l) of the Disaster Management Act, 2005, ordering, amongst other measures, that all employers, shall make payment of wages on their due date without any deduction for the period their establishments are under closure during the lockdown whether amongst other directives to employers that no worker's wage should be cut on account of the Pandemic. It was further directed that in case of any violation, the respective State Government / UT Territory shall take necessary action under the Act and that the District Magistrate / Deputy Commissioner of Police will be personally liable for implementation of the above directions & lockdown measures issued under the above-mentioned Orders. A copy of the said Order is enclosed herewith.

5. The deduction of 10% of allowances is thus utterly illegal and in breach of the above orders and directives of the Government of India, quite apart from anyway being

unlawful in Industrial law, including as per s. 9A of the Industrial Disputes Act, 1947. In these circumstances we sent a notice to the Company on 3rd April 2020 calling upon to the management to refrain from implementing illegal wage cuts and take us into confidence to discuss any austerity measures. However, till date , the 10% deducted amount has not been paid, nor, has the company displayed any intention to change its course of action.

6. In these circumstances we call upon Your good self to carry out the duty enjoined upon you personally under the Notification dt. 29/03/2020 to ensure the implementation by the management of the directions and the immediate payment to all employees of the deducted amount. The management should also be strictly directed not to make any such deduction from the wages for April 2020 which are due to be paid around 7th May or from the wages thereafter.

Yours Faithfully,



Capt. Kanav Hingorani
General Secretary

Enclosures:

1. Office order Cost cutting measures in wake of the current Financial & COVID-19 crisis
2. Sample Payslip for the month of March 2020
3. Circular from Secretary, Ministry of Labour & Employment Vide D.O. No. M-11011/08/2020-Media Dt. March 20, 2020
4. Order from the Ministry of Home Affairs No. 40-3/2020-DM-I(A) Dated 29th March 2020



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AIR INDIA EMPLOYEES'
UNION



AIR CORPORATIONS
EMPLOYEES' UNION



All India Aircraft
Engineers" Association



All India Cabin Crew
Association



Indian Aircraft
Technicians' Association

24th April 2020

To

Shri Hardeep Singh Puri ji
Hon'ble Minister of Civil Aviation
New Delhi

Sub: Request intervention to stop Covid pay cut

Hon'ble Shri Hardeep Singh ji,

The Government of India has invoked the provisions of the Disaster Management Act, 2005 with directions to implement Lockdown measures for the containment of spread of COVID 19 in the country. We the employees of Air India and its subsidiaries, during this period have been operating several rescue and relief flights in the national interest at tremendous risk because of repeated exposure and often beyond the call of duty. While the entire nation is on lockdown to curb the spread of COVID 19, the Corona Warriors of Air India are stepping out of their homes to make lives safer.

We are writing to you at the backdrop of unilateral pay cut imposed on employees of Air India Ltd for three months against the Governments instructions. While all the PSU's are following the directions of the Government, it is agonizing to note Air India has imposed pay cut in wake of COVID 19 crisis. It is explicitly reflected as COVID 19 pay cut in March 2020 salary slip.

1. Reference is drawn to Ministry of Home Affairs, Government of India issued directions dated 29th March, 2020, bearing No.40-3/2020-DMI(A)

under section 10(2)(I) of the Disaster Management Act, 2005. The direction reads "**All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work place, on the due date, without any deduction, for the period their establishments are under closure during the lockdown**"

2. Section 51 of the Disaster Management Act, 2005 makes the directions given by or on behalf of the Central Government binding, and any deviation punishable. Any deviation from the directions issued by the Ministry of Home Affairs may attract action under section 58 of the Act.
3. Ministry of Heavy Industries & Public Enterprises Department of Public Enterprises through Office Memorandum dated 30th March, 2020 has reiterated on timely payment to the employees in view of the outbreak of Novel Corona Virus (COVID 19) by the CPSEs.
4. This is not in line with the Honorable Prime Minister's address to the nation whereas he had appealed to act in a humane manner and urged the employers not to enforce pay cut for employees.

In spite of instructions from the Government of India, concerning the welfare of the employees and directions to make payment of wages on the due date, the management of Air India defaulted on timely payment of salary which was paid on 18th April 2020 with a 10% pay cut. The Flying crew are yet to receive 70% of their wages for the work done in the month of February 2020.

We admire the decision by the top management of a private airline not to implement the previously announced pay cuts in deference to Government's wishes of not reducing pay during the lockdown. While a private airline is honoring the directions of the Government, it is of great consequence for Air India to follow suit and also lead by example. Any pay cut with regards to COVID lockdown has to be voluntary in nature as followed by the senior management of the private airline.

Sir, this pay cut by Air India is mere optics, unnecessary and will hit the morale of the employees which will have a cascading effect on Indian economy. We request you to countermand Air India Committee's decision on COVID pay cut

which is against the Government Directives and also treat us at par with other PSU's during lockdown. We also request you to ensure government's support to Air India at all fronts during these testing times while we continue operating relief and rescue flights.

Jai Hind

Capt. Praveen Keerthi
General Secretary
ICPA

Capt. Kanav Hingorani
General Secretary
IPG

Mr. Prashant Pol
Mumbai Region
ACEU

Mr. Sanjay Lazar
General Secretary
AICCA

Mr. Rajesh Gupte
General Secretary
AIAEA

Mr. Parag Ajgaonkar
General Secretary
AIEU

Mr. Dinesh Chandra
General Secretary
AIAEA

Mr. M. S. Kulkarni
General Secretary
IATA

CC: Principal Secretary, PMO

CC: Hon'ble Minister of Home Affairs

CC: Hon'ble Minister of Finance

CC: Hon'ble Minister of Labour

CC: Hon'ble Minister, Ministry of Heavy Industries

CC: Secretary, Ministry of Civil Aviation

CC: Joint Secretary, Ministry of Labour

CC: Chairman & Managing Director, Air India Ltd

CC: Director (Personnel), Air India Ltd

CC: Director (Finance), Air India Ltd

CC: Executive Director (Operations), Air India Ltd

CC: General Manager (Industrial Relations), Air India Ltd