



NATIONAL PLATFORM FOR SMALL SCALE FISHWORKERS

Memo No. NPSSF/Conv-06/23 (543)

April 20, 2023

To –

**The Hon'ble Member,
Loksabha.**

Subject: Request to oppose the Coastal Aquaculture Authority (Amendment) Bill, 2023

Sir / Madam,

Greetings from the National Platform for Small Scale Fish Workers (NPSSF).

We are sure that you are aware that the Government of India has tabled the Coastal Aquaculture Authority (Amendment) Bill, 2023 to the Parliament for consideration and passage.

NPSSF requests all the members of the parliament including you to kindly go through the amendments proposed in the Bill and make a comprehensive assessment of the bill in the context of sustainable fisheries and the livelihood of small scale fishing communities.

We request you to oppose the Coastal Aquaculture Authority (Amendment) Bill, 2023 for the following reasons –

- A.** Aquaculture, as a part of fisheries activities, falls under the jurisdiction of the state government (in inland waters and up to the territorial waters in marine waters) and not under the jurisdiction of the Central Government according to the **Constitution of India (Art. 246 Seventh Schedule)**. As such the **Central Government has no constitutional authority to enact any law for the management of coastal aquaculture.**
- B.** The Coastal Aquaculture Authority Act, 2005 **unconstitutionally divests the states of their right to manage coastal aquaculture in their respective territories as well as earn revenue from the same.**
- C.** The procedure of inviting public comments on the **Draft Coastal Aquaculture Authority (Amendment) Bill, 2022** has been grossly irregular. It has violated the instructions contained in the Pre-Legislative Consultative Policy (PLCP) dated 05.02.2014 issued by the Ministry of Law and Justice, Government of India.
- D.** The purport of the **Coastal Aquaculture Authority (Amendment) Bill, 2023 is ill conceived.** While large stretches of the coast of the country have been suffering from encroachments and pollution from the shrimp aquaculture farms that call for more stringent environmental norms and their effective implementation, the officially pronounced purport of the instant Bill has been relaxing the regulations to ensure ease of business. **This will further devastate our coastal natural resources including coastal open water fisheries.**

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- E. It is to be noted that while the main purpose of the direction awarded by the Hon'ble Supreme Court of India in the *S. Jagannath vs Union of India & Ors* in 1997 was to **protect coastal environment** from the devastation inflicted by the wildly proliferating intensive shrimp aquaculture by constituting an Authority to regulate such activities under stringent environmental norms, the drive of the Government of India in enacting the Coastal Aquaculture Authority Act, 2005 has been to **regularize the violations of the directions of the Hon'ble Supreme Court** in the matter.
- F. The small scale fishing communities all around the coasts of our country are **opposed to intensive shrimp aquaculture which is destroying the coastal natural resources and their livelihood dependent on those resources.**

The National Platform for Small Scale Fish Workers (NPSSF) prepared and submitted its detailed observations and comments on the Draft Coastal Aquaculture Authority(Amendment) Bill, 2022 which was placed in the public domain before its placement in the parliament. We are dismayed to observe that the Coastal Aquaculture Authority(Amendment) Bill, 2023 tabled in the parliament has been the same as the Draft Coastal Aquaculture Authority(Amendment) Bill, 2022. There has been almost no modification of the draft Bill in response to the public comments including the comments of NPSSF.

The detailed observations and comments of NPSSF on the Draft Coastal Aquaculture Authority (Amendment) Bill, 2022 is enclosed for your kind reference.

We, on behalf of the small scale coastal fishing communities, request you to raise objections to the Coastal Aquaculture Authority(Amendment) Bill, 2023.

Save Coast, Save Water, Save Fish, Save Fisher People

Yours sincerely,

Pradip Chatterjee,
National Convener,
NPSSF.

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Observations and Comments on the Draft Coastal Aquaculture Authority (Amendment) Bill, 2022

Observations and comments of the **National Platform for Small Scale Fish Workers (NPSSF)** regarding the **Draft Coastal Aquaculture Authority (Amendment) Bill, 2022** are as in the following –

NPSSF submits its observations and comments as representative of small scale fish workers the largest coastal community affected by coastal shrimp aquaculture.

Procedure of Inviting Public Comments on the Bill:

The Department of Fisheries in the Ministry of Fisheries, Animal Husbandry & Dairying of the Government of India invited submission of comments on the Draft Bill by issuing a Public Notice on 22nd July, 2022.

Comments on the Draft Bill were asked to be submitted by the 1st August, 2022.

The Hindi and English versions of the Draft Bill were placed on the website of the Department on 30th and 31st July 2022 respectively. [Copy of the Department's website page and the Public Notice attached].

How can the members of the public submit their comments in one or two day's time?

This shows that the matter of invitation of Public Comments has been dealt by the administration of the Department in a very casual and ritualistic manner not commensurate with their duties and responsibilities to the public. This calls for stringent administrative steps to preclude recurrence of such lapses.

NPSSF takes this opportunity to express its appreciation of the effort taken by the Department in publishing the Draft Bill in 9 Indian languages besides publishing it in English. This practice needs to be followed in all such future exercises.

At the same time **NPSSF** strongly holds that the Department's responsibility towards public comments does not end but starts with the issuance of public notice and placing the draft of the proposed legislation in its website.

The Department has a responsibility to facilitate public comments by organizing consultations with stakeholders including the small scale fishing communities, who are the largest primary stakeholders of our coastal land and waters. Printed copies of the Draft Bill in different languages of the coastal people should have been made available as most of the common people cannot access documents through internet.

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The Department has clearly violated the instructions contained in the Pre-Legislative Consultative Policy (PLCP) dated 05.02.2014 issued by the Ministry of Law and Justice, Government of India which instructed inter-alia that the department has to –

- Publish the proposed legislations both on the internet as also through other means;
- Keep the same in the public domain for a **minimum period of thirty days** for being proactively shared with the public;
- Document and disclose the legislation through print or electronic media or in such other manner, as may be considered necessary to give wider publicity to reach the specifically affected group of people;
- Append an explanatory note explaining key legal provisions in a simple language of the draft legislation placed in public domain;
- Hold consultations with all stakeholders in addition to placing the proposal in public domain, according to the nature of the subject and the potential impact on those who will be affected by such legislation.

NPSSF takes serious exception to the above mentioned administrative lapses and non-compliance with the PLCP and holds that the Department of Fisheries should have –

- I. Put up a revised Public Notice providing 60 days time for public comments considering the vast and remote areas where the largest stakeholders of coastal aquaculture including the small scale fishing communities reside.**
- II. Prepared and made available printed copies of the Draft Bill to the stakeholders.**
- III. Held consultations with the stakeholders, especially with the coastal people in general and the small scale fish workers in particular.**

NPSSF also expects that, in compliance with the instruction contained in the PLCP, its objections regarding violation of PLCP norms by the Department will be put up to the Ministry of Law and Justice by the Department for examination.

Purport of the Draft Bill:

The 'Public Notice' states that the Draft Bill has been brought about to simplify the procedures under the Coastal Aquaculture Authority Act, 2005, and its Rules, 2005 and as part of Reducing Compliance Burden and facilitating Ease of Doing Business and in larger public interest.

In a situation where the coastal shrimp aquaculture is spreading like wild fire across the coast of the country destroying mangroves, mudflats, coastal wetlands and agriculture lands through encroachments and afflicting severe damage to the coastal environment and ecology through pollution and depletion of ground water violating whatever little statutory instructions are in place at present, the Department intends to simplify procedures under the Coastal Aquaculture Authority Act, 2005, and its Rules, 2005, to **reduce the compliance burden and facilitate ease of doing business.**

The message delivered is unambiguously clear. The Department has no inclination to address the havoc created by intensive coastal shrimp aquaculture flouting all environmental norms and statutory directions. On the contrary, the Department intends to ease out the statutory procedures and needs for

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compliances that stand in the way of coastal aquaculture including intensive shrimp aquaculture and the business interests linked with it.

NPSSF raises its strong objection to the purport of the Draft Bill as announced under the public notice and states that when in view of the devastation of natural resources and natural resource based livelihoods by intensive coastal shrimp aquaculture there is a need to have more stringent environmental norms and their strict implementation, the Department's drive to ease out the norms to promote business betrays its anti-environment and anti-people purpose.

Etymology of the Draft Bill:

The Draft Bill is a sequel to the legal, administrative and legislative exercises initiated since the latter half of 1990s on Coastal Aquaculture in general and Coastal Shrimp Aquaculture in particular. It cannot be meaningfully considered without drawing on the needs, characters and results of such exercises.

- A. ***S. Jagannath vs Union of India & Ors.***: In a landmark judgment on the case of S. Jagannath v Union of India [(1997) 2 SCC 87], the Supreme Court amply referred to expert reports to identify the adverse impacts of coastal pollution caused by non-traditional and unregulated prawn farming and directed inter alia –
- I. All aquaculture industries/shrimp culture industries/shrimp culture ponds operating/set up in the coastal regulation zone as defined under the CRZ Notification shall be demolished and removed from the said area with the exception of traditional and improved traditional systems of aquaculture;
 - II. There will be no shrimp/aquaculture industry within 1,000 meters of Chilika or Pulicat lake with the exception of traditional and improved traditional systems of aquaculture;
 - III. The Apex Court also defined for the purpose different categories of shrimp aquaculture, namely traditional, improved traditional, semi-intensive and intensive;
 - IV. The agricultural lands, salt pan lands, mangroves, wet lands, forest lands, land for village common purpose and the land meant for public purposes shall not be used/converted for construction of shrimp culture ponds.
 - V. An empowered Authority will be constituted with persons to function as its head and members to protect coastal areas, especially from shrimp culture industry;
 - VI. The authority so constituted by the Central Government shall implement "the Precautionary Principle" and "the Polluter Pays" principles.
- B. ***The Coastal Aquaculture Authority Act, 2005***: Threatened by the above judgment of the apex court the tycoons of industrial shrimp culture lobbied for its reversal in the corridors of power. It was not a very difficult exercise for them as many law makers in the state and the national legislatures had direct and indirect interest in the industrial shrimp aquaculture and the Government also counted on the prospects of revenue and foreign exchange earnings through shrimp exports. The only way to quash the landmark judgment of Justice Kuldeep Singh on shrimp aquaculture was to enact a new law and the Department of Animal Husbandry, Dairy and Fisheries in the Ministry of Agriculture of the Government of India did

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exactly the same by enacting the Coastal Aquaculture Authority Act, 2005 (CAA Act 2005). The Act carried the following directions –

- I. It straightaway expunged the CRZ area restrictions imposed by the apex court on coastal shrimp aquaculture together with all predated court verdicts and directions against coastal aquaculture farms with immediate effect;
- II. It had no reference of restrictions on conversion of land for aquaculture;
- III. It restored the legal status of all running and non-running aquaculture firms in CRZ areas if the latter were registered in 6 months;
- IV. It changed the terms of reference of the Aquaculture Authority from protection of environment from shrimp farms to regulation of the farms;
- V. It made the Aquaculture Authority sacrosanct by directing that no vacancy, defect in constitution or irregular procedure may cause to invalidate any act or proceeding of the Authority.

Thus the CAA Act 2005 had been a legislative exercise to remove the prohibitions and restrictions imposed by the judgment of the Supreme Court with a view to open up the coastal areas for industrial shrimp aquaculture farms including hatcheries and grow ponds. There is no wonder that after removal of the restrictions the definition of the coastal area was extended to 2 kilometers from the high tide line for the purpose of the Act by a subsequent notification.

- C. ***Developments on the Ground:*** Removal of the restrictions proved to be a grand benefit for industrial shrimp farms. Thousands of acres of coastal land were gobbled up by the farms entailing massive destruction of mangroves, mudflats and coastal agricultural lands. Pollution of the coastal waters by aquaculture discharges, ingress of salinity in soil and ground water have been the other hazards. This contributed in decrease of fish stock in coastal and estuarine waters including backwaters, lagoons and coastal wetlands telling heavily on the livelihood of small scale fishing communities who depend on the fish resources of near shore waters. Of course it filled the coffers of tycoons of shrimp business and increased the revenues of the government.

While the CAA Act 2005 allowed all kinds of aquaculture practiced in the coastal area, the Guidelines for Regulating Coastal Aquaculture annexed to the CAA Rules 2005 held that “...only traditional / improved traditional and scientific extensive systems of shrimp farming shall be permitted in the coastal areas”. These Guidelines were adhered nowhere and all authorities related to coastal aquaculture including the Coastal Aquaculture Authority sanctioned intensive or semi-intensive aquacultures all around the coast of the country.

While the CAA Rules 2005 directed the Coastal Aquaculture Authority to “ensure that the agricultural lands, salt pan lands, mangroves, wet lands, forest lands, land for village common purposes and the land meant for public purposes and national parks and sanctuaries shall not be converted for construction of coastal aquaculture farms so as to protect the livelihood of coastal community;(Rule 5.1) The Coastal Aquaculture Authority presided over conversion of thousands of acres of agricultural lands, salt pan lands, mangroves, wet lands, land for village common purposes and the land meant for public purposes etc.

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The Comptroller and Auditor General of our country in his recent report on Conservation of Coastal Ecosystems dated 8th August, 2022 testified to the massive pollution, encroachment, mangrove and mudflat destruction by coastal aqua/shrimp culture.

Everywhere the small scale fishing communities opposed the menace of intensive shrimp aquaculture, but their protests proved weaker than the power of the corporate and business houses supported by the government. The natural resources, ecology and environment of the country were sacrificed on the altar of export oriented big business.

D. Draft Coastal Aquaculture Authority (Amendment) Bill 2022: The present Draft Bill needs to be understood not in separation from but as a continuation of the process that started with the CAA Act 2005. **The amendments proposed clearly do not address the impacts of coastal shrimp aquaculture on coastal ecology, natural resources and natural resource based livelihoods which have been the main concerns of small scale fishing and other communities.** Instead it deals with some administrative and procedural matters with the objective to open up the coastal areas for all kinds of aquaculture activities as well as to reduce the burden of compliance and provide ease of business to the profit seeking destroyers of our coastal ecology; environment and natural resource based traditional livelihoods.

In the following lines NPSSF attempts to indicate a few examples to show major shortcomings of some of the proposed amendments and how they pose further threat to the coastal environment and communities dependent on coastal natural resources –

1. Omission of Water as ‘Aquaculture Input’: In the definitions (sec.2 of the original Act) the amendment proposes insertion of ‘Aquaculture Inputs’ as seed, pesticides, fertilizers, feeds, growth supplements and chemicals/medicines used as input in coastal aquaculture for the maintenance of the water bodies and the organisms reared or other aquatic life available therein;

The omission of both brackish or sea water as well as fresh surface or ground water as aquaculture inputs is conspicuous. Water use by shrimp ponds is responsible for salinity ingress in soil and ground water and depletion of ground water level. Section 5(v) of the CAA Rules 2005 provides for fixing the standards of the aquaculture inputs. The omission keeps water usage beyond its purview.

2. Marking of areas potential and suitable for aquaculture by ‘Aqua-mapping’: In the definitions (sec.2 of the original Act) the amendment proposes insertion of ‘Aqua-mapping’ as computer generated and ultimately, expert reviewed coastal area distribution maps depicting areas potential and suitable for coastal aquaculture. How can computer generated maps indicate potentiality and/or suitability of areas for aquaculture? How can maps indicate the carrying capacity of the area vis-a-vis the environmental, ecological and social impacts of aquaculture and that too without any knowledge of what kind of aquaculture is going to come there and what may be their cumulative impact? It appears that the idea is to provide a land bank for entrepreneurs of shrimp aquaculture.

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3. In the proposed amendment under 'm' of Section 2 'Aquaculture Activity' should include not only 'rearing and cultivation, under controlled conditions either indoor or outdoor in cement cisterns, ponds, pens, enclosures or otherwise, in coastal areas, of any life stage of shrimp, prawn, fish or any other aquatic life in saline or brackish water' but also **processing**. As **processing of aquaculture products** also needs to be controlled in view of their environmental and social impacts.
4. Regarding amendment of **Section 4** of the original Act that deals with the **Establishment of Authority and appointment of Chairperson and members** and also regarding **insertion of Section 7A** that deals with the **Committees of the Authority** NPSSF holds that there should be adequate representation of the small scale fish workers and these bodies. There should be at least 3 members in the CA Authority from small scale fish workers and their organisations one each from the East, South and West coasts. The subsidiary committees should also have adequate number of members representing the small scale fish workers and their organisations. The ToR of these committees should be framed in consultation with the coastal communities including the small scale fish workers.
5. Regarding amendment of Section 11 of the original Act that deals with the **Functions of Authority** to fix or adopt the standards, certify, monitor, regulate or prohibit coastal aquaculture inputs the proposed amendment at (f) should include Water (both fresh and saline or brackish) as an aquaculture input.
6. Regarding amendment of Section 11 of the original Act that deals with the **Functions of Authority** to fix or adopt the standards for emission or discharge of effluents from whatsoever coastal aquaculture activity the proposed amendment at (f) should include -

Provided that cumulative impact of emissions and discharge as well as the carrying capacity of the area will be taken into consideration while fixing or adopting the standards for emission or discharge of effluents.
7. Regarding amendment of Section 13 of the original Act that deals with the **Registration for coastal aquaculture** NPSSF vehemently opposes the proposed amendment at (b) that states 'Provided further that nothing in this sub-section shall apply in the case of a coastal aquaculture hatcheries, Nucleus Breeding Centre (NBC), Brood Stock Multiplication Centre (BMC), sea weed culture and cage culture activities and such other activities as may be notified by the Government'.

All these activities have the capacity to severely harm the coastal ecology and environment as well as the coastal open water fisheries. In many coastal areas concentration of hatcheries on the coast has been impacting the small scale fisheries in near shore areas in a massive way. Exempting the above aquaculture activities from area restrictions imposed in the original Act to the effect that these cannot be carried out within 200 meters of high tide line and also in creeks, rivers and backwaters means manifold increase of these activities and there impacts in the most ecologically sensitive areas on the coast.

NPSSF demands that all aquaculture activities including hatcheries, rearing or grow ponds, Nucleus Breeding Centre (NBC), Brood Stock Multiplication Centre (BMC), sea weed culture and cage culture activities will have to be put under the area restrictions as stated in the original Act.

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8. Regarding replacement of Section 14 of the original Act that deals with the **penalty for carrying on coastal aquaculture in contravention** of the Act, NPSSF holds that the nature, volume and impact of the violation have to be considered while fixing the penalty. The smaller and more benign violators should be penalised less and the larger and more damaging violators should be penalised more. The standing crops of traditional or improved traditional aquaculture need not be destroyed.
9. Regarding insertion of the Section 14A(2) that deals with **appeal against penalties**, NPSSF is of the opinion that traditional aquaculture farms should be exempted from depositing the penalty at the time of filing the appeal.
10. In the **Table on penalties** fixed under Section 14 the penalties on traditional or improved traditional aquaculture farms should not be more than 50% of that fixed for intensive or semi-intensive farms.

Also, while the amended Bill provides for a host of aquaculture activities, the schedule on penalties does not refer to all such activities.

Further, in the case of semi-intensive and intensive aquaculture farms and activities the penalties should not be capped at Rs. 1,00,000/- and should be levied in proportion with their area, mode of operation and impacts due to violation.

In view of the procedural flaws, wrong purpose, failure to address the real and main problems of coastal aquaculture as well as the gross inadequacies of the proposed amendments NPSSF urges upon the Department of Fisheries in the Ministry of Fisheries, Animal Husbandry and Dairying of the Government of India to –

- A. **Rescind the Draft Coastal Aquaculture Authority (Amendment) Bill, 2022 with immediate effect;**
- B. **Accept that the Department's primary responsibility is to protect the coastal ecology and the livelihood of millions of small scale fishers dependent on the coastal fish resources and not to promote the unscrupulous entrepreneurs of intensive shrimp aquaculture linked with corporate business interests;**
- C. **Start a process of meaningful consultation with the coastal communities affected by coastal shrimp aquaculture to understand the nature and scale of violation of law and entailed devastation as well as the gross administrative failure to address those;**
- D. **Reinstate and update the basic directions of the Supreme Court of India delivered by Hon'ble Justice Kuldeep Singh in the case of S. Jagannath v Union of India;**
- E. **Prepare an appropriate legislation with an effective implementation procedure to address the problems of intensive coastal aquaculture and to promote sustainable aquaculture which can be participated and taken forward by the coastal communities including the small scale fishing communities.**

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