

WELCOME

AIM ENVIRO

www.aimenviro.com

Telfax: 0253-2580555

Cell: 09822068288

aim.enviro@gmail.com

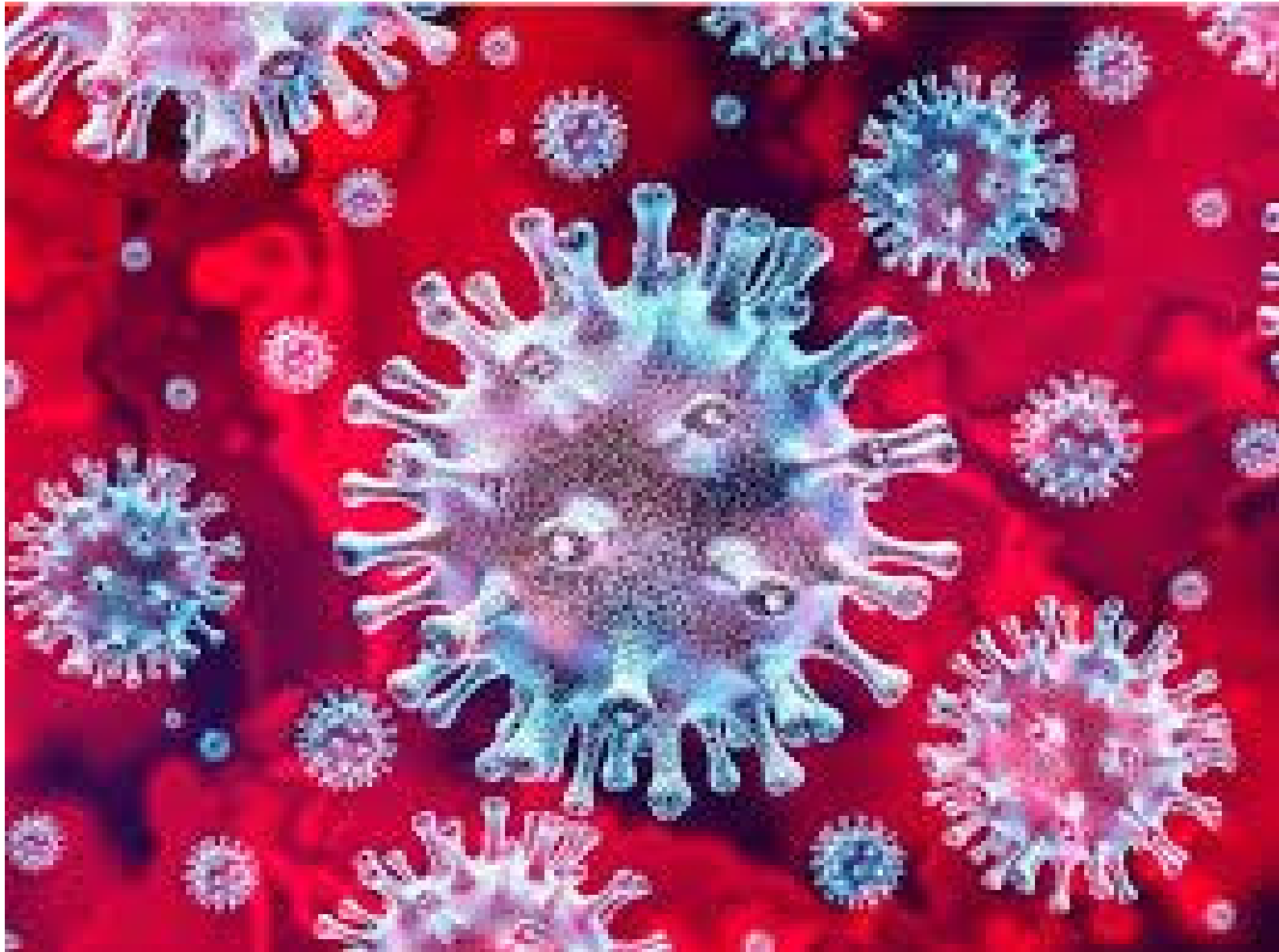
Environment Knowledge Centre

Flat 1, Thakkar Retreat, Bldg-I, Old Naka, Gangapur Road,
Nashik – 422 013

Pune Office

207, Nyati Emporium, Above VOLVO Showroom,
Mumbai-Bangalore Highway, Baner, Pune – 411 045

COVID19 and Legislation in India



**THE DISASTER
MANAGEMENT
ACT, 2005**

Major Disasters in India & Legislation

- The Union Carbide Disaster in Bhopal in 1984, gave rise to 'Chemical Accidents (EPPR) Rules, 1989'
- The disasters listed below were trigger in passing the 'Disaster Management Act, 2005'
- In recent past India witnessed major earthquakes in 2001 (Bhuj), 1993 (Killari), 1991 (Uttarkashi);
- More frequent are the Storms in 2018 (Titli), 2016 (Kyant), 2014 (Hudhud), 2013 (Lehar, Helen), 2012 (Nilam), 2010 (Laila)
- More common are floods: 2018 (Kerla), 2017 (Mumbai, Gujrat, WB, Bihar, North east), 2016 (Brhamaputra), 2015 (Chennai, Gujrat, Assam), 2014 (Kashmir)

Disaster Management Bill, 2005

Provides for setting up of

- ‘National Disaster Management Authority’ under the chairmanship of the Prime Minister and,
- ‘State Disaster Management Authorities’ under the chairmanship of the Chief Ministers and,
- ‘District Disaster Management Authorities’ under the chairmanship of District Magistrates.

It also provides for

- Constitution of a ‘Disaster Response Force’ and,
- Setting up the ‘National Institute of Disaster Management’ and,
- Constitution of ‘National Fund for Disaster Response’ and ‘National Fund for Disaster Mitigation’ and similar funds at State & District level.
- It also provides for specific role for Urban & Local bodies e.g. Municipalities, Corporations & Gram Panchayats.

Disaster Management Act, 2005

- It gives powers and prescribes Responsibilities for the National/ State/ District Disaster Management 'Authority'.
- Provides for constitution of 'Advisory Committee' at National/ State/ District level.
- Provides for constitution of 'Executive Committee' and Sub-committees at National/ State level.
- The 'Executive Committee has the responsibility of implementation.
- At District level, the District Magistrate can take decisions and departments/ local authorities are bound to his orders.
- The 'Authority' can prescribe relief e.g. shelter, food, drinking water, medical cover, sanitation and monetary relief like ex gratia assistance, relief in loan repayment, grant of fresh loan on concessional terms.

Disaster Management Act, 2005

Provides for penalties for offences

- Obstruction/ refusal to comply – imprisonment up to 2 yrs &/ or Fine
- False claim (for obtaining relief) - imprisonment up to 2 yrs & Fine
- Misappropriation of Money/ Material - imprisonment up to 2 yrs & Fine
- False warning to create panic - imprisonment up to 1 yr & Fine
- Failure of officer in duty - imprisonment up to 1 yr or Fine
- Contravention of any order - imprisonment up to 2 yr &/or Fine
- Offence by Company – Proceedings against Director/ Manager/ Secretary/ Officer

Disaster Management Act, 2005

Provides,

- Powers to issue directions
- Powers to be made available (man power) for rescue operations
- Power of requisitioning of resources, provisions, vehicles etc for rescue operations
- Power to issue directions to Media for communication of warnings or advisories etc.
- Bar of Jurisdiction of Court (except Supreme Court & High Court)
- Action taken in good faith & Immunity from legal process – Protection for officers & employees authorised under the Act

National Disaster Response Force

- The Disaster Management Act has statutory provisions for constitution of National Disaster Response Force (NDRF) for the purpose of specialized response to natural and man-made disasters.
- Accordingly, in 2006 NDRF was constituted with HQ at New Delhi under the Ministry of Home Affairs, GoI.
- At present, NDRF has a strength of 12 Battalions with each Battalion consisting of 1149 personnel.
- The notification of NDRF Rules on February 14th , 2008, makes NDRF a dedicated force for disaster response related duties, under the unified command of Director General NDRF.

National Institute of Disaster Management

- The National Institute of Disaster Management (NIDM), New Delhi; was constituted by an Act of Parliament, under the Ministry of Home Affairs, GoI.
- Under the DM Act, NIDM has been assigned nodal responsibilities for human resource development, capacity building, training, research, documentation and policy advocacy in the field of disaster management.
- NIDM has a southern campus in Andhra Pradesh
- Earlier in 1987 'Disaster Management Institute' (DMI) was established at Bhopal by State Govt of MP; in the backdrop of Bhopal Chemical Disaster, to impart professional training and providing consultancy.

THE EPIDEMIC DISEASES

ACT, 1897

amended in April 2020

Epidemic Diseases Act, 1897

- It gives powers to take special measures and prescribe regulations as to dangerous epidemic Disease to Central & State Govts.
- Take measures and prescribe regulations for a) the inspection of a) persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected b) any ship or vessel and for such detention thereof, or of any person.
- Penalty for offence shall be as per Section 188 of the Indian Penal Code (IPC).
- Protection to persons acting under Act: No legal proceeding against any person for anything done in good faith intended to be done under this Act .

Epidemic Diseases Act, 1897

Amendment Ordinance 22 April 2020

- Govt action extended to Land port, Port & Aerodrome for Bus/ train/ Goods vehicle/ Ship/ Vessel/ Aircraft.
- It prohibits violence against Healthcare service personnel & damage to property.
- Punishment shall be imprisonment for min 3 months to 5 years and Fine of min Rs.50,000 to 2 Lakhs.
- In case of serious injury to Health care service personnel, imprisonment for min 6 months to 7 years and Fine of min Rs.1 Lakh to 5 Lakhs.
- Offence shall be Cognizable & non-bailable
- In case of property damage, compensation shall be 2 times the fair Market Value of the property. If not paid, it will be treated as arrears of Land Revenue.

Post COVID19 Legislation in India

- COVID19 has taught us many lessons. Legislation is not different.
- In spite of generic nature of DM Act, it is clear from the text of the Act that; the law makers had Earthquake, Cyclones & Floods in their mind.
- The Epidemic Diseases Act, 1897 (A British era law) was amended in April 2020 to control the attacks on Doctors & healthcare workers. However, it remains inadequate in present scenario.
- A Pandemic was not considered in DM Act & ED Act; hence post COVID19; either amendment in the present Acts or a new law is expected.

Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)

