

## **Constitutional Law and Public Administration in India**

**Prof. (Dr) Sairam Bhat**

**Centre for Environmental Law, Education, Research and Advocacy (CEERA)**

**National Law School of India University, Bengaluru**

**Week-12**

**Lecture- 03**

### **Non-Constitutional Bodies - V (Disaster Management Authority)**

Disasters can be of different types. There can be natural disasters such as tsunamis, earthquakes, floods. Disasters can also be man-made such as the Bhopal gas leak tragedy. Recently, the world has been increasingly facing several disasters and most of them are caused by climate change. For example, the USA has been witnessing a lot of massive widespread forest fires in the recent years. In India, several states were faced with floods in 2018. Very recently, Delhi was faced with a very bad flood situation. In Turkey and parts of Syria, there was a huge, massive earthquake that happened in 2023, which claimed the life of over 58,000 people. Firstly, we need to prevent these kinds of disasters. Secondly, there needs to be some level of preparedness. If at all a disaster is to happen, we need to be prepared to face that disaster as an individual, as a part of the community, as a part of the state or the nation. We need to be resilient towards disasters.

That's why we have a disaster management authority. However, this authority only came into existence from 2005. What all happened before that? The decade of 1990s was declared by the UN as the International Decade for Natural Disaster Reduction. Following this, in 1999, a High-Powered Committee was constituted to look into the disaster management aspects in the country. In 2001, the Gujarat earthquake happened, which was an earthquake that happened on a large scale, which claimed the lives of several people. Following this, a National Committee was constituted, which was to look into improving preparedness when it comes to disasters and to suggest effective mitigation mechanisms for disaster management. It also was to suggest a disaster management plan. All of this was done by the Committee, but no action was taken based on the Committee's report. Please note that in the Constitution, in the 7th Schedule, which talks about the union list, state list and the concurrent list, there is no mention of disaster management. There can be some entries which you can interpret as, being a part of disaster management. However, there is no explicit entry as disaster management in the schedule. In 2002, the National Commission to Review the Working of the Constitution, headed by Venkatchaliah, looked into the dire state of disaster management in India and they said that the mechanism for immediate state responses to emergencies and disasters

is wholly inadequate in India. There was a suggestion prior to this commission by the Ministry of Agriculture, to add a new entry concurrent list, which will be management of disaster and emergencies, natural or manmade. The Venkatachalia Commission also agreed with this suggestion. However, we do not have an entry on disaster management even now. In 2004, another natural disaster happened, which was again a widespread large-scale disaster, which was the Indian Ocean Tsunami.

Following this, the National Disaster Management Act was enacted which envisaged the establishment of the National Disaster Management Authority. In 2005, by way of an executive order, a National Disaster Management Authority was instituted, which means initially it was an executive body, even though the statute was talking about its establishment. In 2006, finally, it was notified as Statutory Body. The National Disaster Management Authority (NDMA) is responsible for bringing together all of the stakeholders whenever there is a disaster in order to prevent disaster, to improve preparedness, to be more resilient. It brings together all stakeholders in the face of a disaster. It is the topmost disaster management authority in India. It works under the Union Ministry of Home Affairs. The Prime Minister will be the ex-official chairperson of NDMA and there are nine members in total, who will be nominated by the Prime Minister, and he will also designate one of them as the Vice Chairperson of NDMA who will be responsible for the day-to-day functioning of the authority. NDMA had several functions. Firstly, to prevent disasters, increase preparedness and be more resilient towards disasters. Essentially, making India more resilient and safer in the face of disasters. And how do we do that? Through education, knowledge and through technology. There is never one single entity that is responsible for disaster management. Actually, it's a combined effort. However, we have this authority to guide us, to supervise or to monitor all of these activities. All efforts to prevent disasters, to be more prepared and to be resilient, they will have to be done in a sustainable way. We talked about the Planning Commission, wherein we talked about economic and social development. Development is essential for the progress of the country, no doubt. However, development will also have to be done in a sustainable manner, keeping the environment in mind. So, we need to conduct our development of nation in a way that we are not exhausting all of the resources that are available to us. We are also keeping in mind the future generations that will come. Whatever developmental activities are there, they'll have to firstly keep in mind the environment.

Secondly, they'll also have to keep in mind the disaster resilience aspect. If that is not done, more disasters are bound to happen and they will happen in a larger scale, in a scale that is much larger than what would have happened had there been proper disaster management planning that went before these developmental activities had taken place. So this particular objective will have to be carried out keeping in mind the environmental

sustainability using technology, knowledge, education. Traditional wisdom can also be used for carrying out or materializing this particular objective.

Second objective is similar, but in other words, which is to mainstream disaster management into developmental planning process. Whatever developmental planning is carried out in the country; it has to be infused with disaster management. Speaking of this, it is not just the Disaster Management Act that is there for managing disasters. Even other legislations, even though they may not look like a disaster management legislation can be used for this purpose. For example, Chapter 14 of Indian Penal Code talks about offenses against public safety and health, which can be used for preventing certain disasters. Water Act, Air Act, all of these are there to prevent water pollution and air pollution respectively. They can also be considered as a component of disaster management. There are several building safety standards and other industrial safety standards which are there to prevent industrial disasters and disasters relating to buildings. You can even say that Motor Vehicle Act is a legislation to prevent disasters. All of this following safety standards is essentially important. If those are not followed, then that can lead to a lot of manmade disasters as well. And in the face of natural disasters, these buildings or constructional activities will suffer a lot. For example, in UK in 2017, there was a Grenfell Tower that was caught in fire. The fire actually started in one of the apartments in their fridge. It was not supposed to cause a disaster of this huge scale. However, because the building was constructed, flouting several building safety standards; the cladding, the outer part of the building was constructed using a material that escalated the fire instead of reducing it. There were a lot of safety standard failure that were there in the Grenfell Towers, which led to the escalation of fire to a great extent, and which claimed the lives of many people. This is precisely the reason why we need to follow the signed-up safety standards, industrial standards, building standards, all of that.

The third objective is to develop forecasting and early warning system, which also has a fail-safe communication component. So, you get your weather forecast in your phones or you might see weather forecast in your channels. Similarly, they also forecast if there is heavy rainfall, which might lead to floods. All of these early warnings, as much as possible, shall be given to the general public once again to reduce the scale of disasters. It is the objective of the National Disaster Management Authority to develop such kind of forecasting and early warning system, which also has a fail-safe communication component.

The next objective of Disaster Management Authority is to develop a techno-legal framework for regulating and for ensuring compliance with respect to all of these matters, for the identification, assessing and monitoring of disaster risk. The next objective is to ensure efficient response, especially for the vulnerable section of the society. Whenever there is a disaster, it is always the most vulnerable section of society that is vulnerable to

disasters as well. These are underprivileged people, who come from lower income families, who are coming from the minority communities. They are always more vulnerable in the face of a disaster as well. So there needs to be efficient response, on the ground response and specifically, especially for these vulnerable groups as well. The next objective is to undertake reconstruction activities after a disaster has happened. And this reconstruction activity will have to be disaster resilient. It is also the objective of the Disaster Management Authority to enter into proactive and productive partnership with the media. Whenever there is a disaster, media helps to amplify the voice of the victims of the disaster so that the elected representatives of the area, the bureaucrats in that area, so that proper and timely action can be taken place. Yes, media in some times also exaggerates information, however, it is an important tool.

The authority is also responsible for approving the national plan. It will recommend minimum relief for the disaster victims. It also exercises superintendence over National Disaster Response Force (NDRF). It also approves plans prepared by different ministries and their departments. It lays down guidelines that has to be followed by different state disaster management authorities while they are formulating plans for their respective states. It is also responsible for coordinating and the enforcement and implementation of the policy and disaster management plans. It is also the function of the National Disaster Management Authority to recommend provision of funds for mitigation mechanisms. It also extends support to other countries if they are faced with a disaster and if the Central Government has the authority to do so. It also undertakes several activities for capacity building. As mentioned before, there is a State Disaster Management Authority (SDMA) in every state which will be chaired by the Chief Minister of that state and the Chairperson of the State Executive Committee will be the ex-official Chief Executive Officer of SDMA. The State Executive Committee is also envisaged under the Disaster Management Act and is responsible for implementing disaster management plans. It is essentially the coordinating and managing body. There will be other 8 members who will be nominated by the chair of the authority and one of them will be designated as the vice chairperson who will be responsible for the day-to-day functioning of the state disaster management authority. The national disaster management authority, they are supposed to lay down a state disaster management plan or policy and they will approve plans, disaster management plans made by different ministries and departments of the state government. There is also a District Disaster Management Authority or DDMA in every district of each state. And that will be headed either by the district collector or the District Magistrate or Deputy Commissioner.

These are the officials who can be appointed as the chairperson of a district disaster management authority. To give an example of a success story of disaster management in one of the Indian states, we can talk about Odisha. State of Odisha is in the eastern side of India and also is vulnerable to cyclones and other natural disasters because of its unique

positioning. In 2019, there was a cyclone, a very peculiar cyclone which was named Cyclone Fanny which had a recorded speed of 240 km per hour. However, in Odisha, there is a robust disaster management mechanism. They also enter into partnership with international organization for disaster management and because of the efficient and timely response to this particular cyclone, it was very well managed, the number of fatalities was very low. Odisha is a success story when it comes to disaster management in India. But not all states or even the situation of national planning of disaster is as successful as has been in the case of Odisha. Even though the Act was enacted in 2005 and the National Disaster Management Authority came into existence in 2005, the first National Disaster Management Plan was only formulated in 2016, over 10 years, over a decade after the enactment of the Act and the establishment of the National Disaster Management Authority.

There is also a growing allegation that there is lack of coordination, there is inadequate training given to the first responders whenever there is a disaster, and it remains one of the biggest challenges to proper disaster management. For example, when the Kerala floods happened in 2018, this was a major allegation that there was no proper coordination among different disaster management authorities, different levels of disaster management authorities. However, during the Kerala floods, there was a great deal of community resilience. The community came together for disaster management and that is a great example of community resilience. In 2019, the disaster management plan introduced biological and public health emergency. COVID-19 pandemic wreaked havoc across the world and India also. Disaster Management Act was frequently used during the pandemic and several directions and guidelines were issued by the central government using the disaster management plan. In theory, these are all effective and proper. In practice, we see that there is still a lot that we need to figure out and fix in terms of disaster management.