

Constitutional Provisions and Central Water Laws

Article 246 of the Constitution deals with the subject matter of laws to be made by Parliament and by the Legislatures of the States. The allocation of responsibilities between the Centre and the States in respects of laws to be made fall into three categories –

- i) The Union List (List – I)
- ii) The State List (List –II)
- iii) The Concurrent List (List –III)

Subject of ‘water’ is a matter at Entry 17 of List –II, i.e. State List. This Entry is subject to the provisions of Entry 56 of List –I, the Union List. The specific provisions in this regard are as under:

List - I Union List

56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

List - II State List

17. Water that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 56 of List - I.

Article 262 of the Constitution deals with adjudication of water disputes. The provisions in this regard are:

Article 262 (1)

Parliament may, by law, provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

Article 262 (2)

Notwithstanding anything in this Constitution, Parliament may, by law, provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

The Central Legislation so far enacted under the above Constitutional provisions consists of 4 Acts, three under Entry 56 of List –I namely, the “River Boards Act 1956”, “Betwa River Board Act 1976” and “Brahmaputra Board Act 1980” and 4th one under Article 262, namely, the “Inter-State River Water Disputes Act, 1956”. Details of Constitutional Provisions and Central Water Laws are available in “Legal Instruments on Rivers in India Vol I” at http://www.cwc.nic.in/main/webpages/Legal_instruments_of_Rivers_in_India_publications.html. Inter-State River Water Disputes Act, 1956 as amended upto 2002 is available at “Inter-State River Water Disputes Act, 1956” at http://www.cwc.nic.in/main/webpages/Legal_instruments_of_Rivers_in_India_publications.html.
