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APPOINTMENT OF OFFICERS AND ENTRUSTMENT OF FUNCTIONS: SECTION 4

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4.1 *Section 4(1): officers entrusted with functions*

section 4(1) of the Environment (Protection) Act enacts three important propositions.

(i) The Central Government may appoint officers, with such designation as it thinks fit, "for the purposes of this Act".

(ii) To these officers, the Central Government may entrust "such of the powers and functions under this Act as it may deem fit".

(iii) This power of entrustment is without prejudice to section 3(3), whereunder the Central Government may constitute an authority for exercising such of the powers of the Central Government "under this Act" and for taking such measures under section 3(2) as may be mentioned in the order.

4.2 *Width of delegation*

Section 4(1) does not indicate *whose powers* and functions can be entrusted thereunder. Probably, these could be powers and functions (all or any) of the Central Government. If so, the delegation can become very wide. Taken literally, it could even include the power of issuing directions under section 5 and making rules under sections 6 and 25. But that would be going too far. Here, it is necessary to mention that apart from section 3(3) and section 4(1), delegation by Central Government is permissible under section 23 also, but it excludes (*inter alia*) the rule-making power under section 25. One should perhaps read this limitation (and possibly many other limitations) into section 4(1) also. But the point definitely needs to be made clear.

4.3 *Section 4(2): Exercise of entrusted power: multiple control*

Section 4(2) provides that the officers appointed under section 4(1) shall be subject to the general control and direction of—

- (i) the central Government;
- (ii) if the Central Government so directs, also of the authority or *authorities*, if any, constituted under section 3(3); or
- (iii) also of any other authority or officer.

It will be seen that there is a possibility of dual control in so far as the authorities constituted under section 3(3) are more than one. In the practical working of the section, difficulties may arise, by such duality of control, or rather, by something more than duality—a multiplicity of control.¹

¹ Point relevant for multiplicity.