

MAHARASHTRA GROUND WATER (REGULATION FOR DRINKING WATER PURPOSES) ACT, 1993

44 of 1993

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CONTENTS

CHAPTER 1 :- Preliminary

1. Short title and commencement
2. Definitions

CHAPTER 2 :- Protection Measures for Public Drinking Water Sources

3. Prohibition of construction of wells within certain limits
4. Declaration of water scarcity area
5. Regulation of extraction of water from wells in water scarcity areas
6. Declaration of over-exploited watershed
7. Prohibition of sinking of well in over-exploited watershed
8. Prohibition of extraction of water from an existing well for certain period
9. Closing down existing well
10. Power of entry upon any land for obtaining information
11. Power to stop contravention of the provisions of section 3, 5, 7, 8 or 9
12. Payment of compensation
13. Bar to claim compensation

CHAPTER 3 :- Miscellaneous

14. Appeals
15. Protection of action taken in good faith
16. Penalty
17. Service of notice
18. Over-riding effect of the Act
19. Power to make rules
20. Power to remove difficulties

MAHARASHTRA GROUND WATER (REGULATION FOR DRINKING WATER PURPOSES) ACT, 1993

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An Act to regulate the exploitation of groundwater for the protection of public drinking water sources and to provide for matters connected therewith and incidental thereto ; Whereas it is expedient to regulate the exploitation of groundwater for the protection of public drinking water sources and to provide for matters connected therewith and incidental thereto ; It is hereby enacted in the Forty- second Year of the Republic of India as follows

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Groundwater (Regulation of Drinking Water Purposes) Act, 1993.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date and in such local area of the State as the State Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different local areas.

2. Definitions :-

In this Act, unless the context otherwise requires,

(1) "any other law for the time being in force" means a law enacted under any of the entries enumerated in List II-State List in the Seventh Schedule to the Constitution of India and in force for the time being ;

(2) "Appropriate Authority" means the Collector of a district and includes any officer, not below the rank of the Deputy Collector, as the State Government may, by notification in the Official Gazette, appoint for the purposes of this Act ; and different officers may be appointed for different local areas of the State ;

(3) "drinking water purposes" in relation to the use of water, means consumption or use of water by human population for drinking and for other domestic purposes, and includes consumption of water for similar such relevant purposes for cattle ;

Explanation For the purposes of this clause, the expression "domestic purposes" shall include consumption or use of water for

cooking, bathing, washing, cleansing and other day-to-day activities ;

(4) "groundwater" means water existing in an aquifer below the surface of the ground at any particular location regardless of the geological structure in which it is stationary or moving and includes all groundwater reservoirs;

(5) "over-exploited watershed" means a watershed where the estimated annual groundwater extraction is more than 85 per cent of the estimated average annual groundwater recharge, calculated in the prescribed manner and declared as such under section 6 ;

(6) "prescribed" means prescribed by rules ;

(7) "public drinking water source" means a well from which the State Government or a local authority or such other authority as the State Government may, by notification in the Official Gazette, specify, provides water to the public, and includes such well or any other drinking water source as may be notified by the Collector ;

(8) "public water-supply system" means the structures relating to public water-supply source, including conveying pipelines, storage reservoirs, standposts, cisterns, hand pumps, power pump and all other materials connected thereto, through which water is supplied for drinking water purpose ;

(9) "rules" means the rules made under this Act;

(10) "sink" with all its grammatical variations and cognate expressions, in relation to a well, includes any drilling, boring or digging of a new well or deepening carried out to an existing well;

(11) "Technical Officer" means a Geologist in the office of the Ground-water Survey and Development Agency not below the rank of a Assistant Geologist;

(12) "water scarcity area" means an area declared as such by the Collector of the district under section 4 ;

(13) "watershed" means an area confined within the topographic water divide line, as identified and notified by the Groundwater Survey and Development Agency from time to time, having regard to the purposes of this Act;

(14) "well" means a well sunk for the search for, or extraction of groundwater and includes a dug well, bore-well, dug-cum-bore-

well, tube- well and filter point.

CHAPTER 2

Protection Measures for Public Drinking Water Sources

3. Prohibition of construction of wells within certain limits

:-

(1) Notwithstanding anything contained in the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966) or any other law for the time being in force, and having regard to the interests of the general public to have the supply of requisite quantity of water for drinking water purposes from the public drinking water source, no person shall sink any well for any purpose in the vicinity of public drinking water source within a distance of five hundred metres of such source, if both are in the area of the same watershed:

Provided that the provisions of sub-section (1) shall not apply to the sinking of a well on behalf of the State Government or local authority for being used as a public drinking water source.

(2) Notwithstanding anything contained in sub-section (1), if any person desires to sink a well for irrigation or drinking water purposes within a distance of five hundred metres of a public drinking water source, he shall do so only with the permission of the Appropriate Authority.

(3) An application for permission under sub-section (2) shall be made to the Appropriate Authority in such form and accompanied by such fee as may be prescribed.

(4) The Appropriate Authority, after receipt of an application under sub-section (3) may, on the advice of the Technical Officer, for reasons to be recorded in writing, grant permission for the sinking of a well for irrigation or drinking water purpose if it is satisfied that such sinking shall not adversely affect the public drinking water source or refuse the permission applied for if granting of such permission shall so adversely affect such source ;

Provided that if the Appropriate Authority fails to inform the applicant of his decision within one hundred twenty days from the date of receipt of the application, the permission applied for shall be deemed to have been granted, but such deemed permission shall always be subject to any conditions prescribed in the rules.

(5) Every permission granted under this section shall be subject to-

(a) the condition that the Appropriate Authority may, for reasons to be recorded in writing, by order, prohibit, restrict or regulate from time to time the extraction of water from such well if in his opinion it is necessary to do so in the public interest;

(b) such other conditions and restrictions as may be prescribed.

4. Declaration of water scarcity area :-

If, at any time during the course of monsoon or thereafter, the Collector of the district, on the advice of the Technical Officer, having regard to the quantum and pattern of rainfall and any other relevant factor, is of the view that the public drinking water source in any area of the district are to be a water scarcity area for such period as may be specified in the order, but not exceeding one year at a time.

5. Regulation of extraction of water from wells in water scarcity areas :-

(1) Upon declaration of any area as water scarcity area under section 4, the Appropriate Authority may, for the duration of the water scarcity period, by order, regulate the extraction of water from any well in such area by restricting or prohibiting such extraction for any purpose other than for drinking water purpose where such well is within a distance of one kilometre of the public drinking water source :

Provided that, for the purpose of such regulation under this section ,

(a) the area within one kilometre from the public drinking water source shall be divided into zones as may be advised by the Technical Officer and the priorities referred to in clauses (b) and (c) shall as far as the situation and location may demand relate from the nearest to the farthest zone ;

(b) the well, not being the well for water from which it is used for the standing irrigated crops, which is nearer the public drinking water source shall be considered as the first priority ;

(c) the well water from which is being used for the standing irrigated crop shall, as far as may be practicable, taken last in the priority.

(2) The order imposing such restriction or prohibition under sub-section (1) shall be served or caused to be served personally by

delivering or tendering the same to the owner of the well atleast fifteen days before the order of commencement of the order of restriction or prohibition, as the case may be. Where the owner cannot be found, an authentic copy of the notice may be served on any adult member of the family. In the case of an order affecting a Corporation or a firm, it shall be served in the manner for the service of a summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be,, in the First Schedule to the Code of Civil Procedure, 1908 (V of 1908).

6. Declaration of over-exploited watershed :-

The Appropriate Authority may, on the advice of the technical officer, declare a water shed as over-exploited watershed.

7. Prohibition of sinking of well in over-exploited watershed :-

(1) Notwithstanding anything contained in the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), or any other law for the time being in force, and having regard to the prime need of water for drinking water purposes of the human beings and in the interests of the general public to have the supply of requisite quantity of water for drinking water purposes from the public drinking water source in the over-exploited watershed, no person shall, without the permission of the Appropriate Authority, sink well within the area of an over-exploited watershed:

Provided that, the provisions of sub-section (1) shall not apply to the sinking of a well on behalf of the State Government or a local authority for being used as a public drinking water source.

(2) An application for permission under sub-section (1) shall be made to the Appropriate Authority in such form and accompanied by such fee as may be prescribed.

(3) Every permission granted under this section shall be subject to

(a) The condition that the Appropriate Authority may, for reasons to be recorded in writing, by order prohibit, restrict or regulate the extraction of water from such well for such period as may be specified in such order, if, in his opinion, it is necessary to do so in the public interest;

(b) any other conditions and restrictions as may be prescribed.

8. Prohibition of extraction of water from an existing well

for certain period :-

If, on the advice of the Technical Officer, any existing well in the area of an over-exploited watershed is found to be adversely affecting any public drinking water source, the Appropriate Authority may, notwithstanding anything contained in any law for the time being in force and having regard to the quantum and pattern of rainfall and any other relevant factor, after giving its owner a reasonable opportunity of being heard, by an order, prohibit the extraction of water from such well during the 6 months period from the 1st February to 31st July every year.

9. Closing down existing well :-

Notwithstanding anything contained in any law for the time being in force, including this Act, the Appropriate Authority, on the advice of the Technical Officer that any existing well in the area of an over- exploited watershed is found to be adversely affecting any public drinking water source and if such source cannot be adequately protected by action under section 8, may after giving its owner reasonable opportunity of being heard, by order, require him to stop the extraction of water from, and close or seal off, such well forthwith either temporarily, having regard to the extent to which it so adversely affects.

10. Power of entry upon any land for obtaining information :-

Whenever it is necessary to make an inquiry or examination in connection with the protection of a public drinking water source or with the maintenance of a public drinking water source the Appropriate Authority or any officer duly authorised by it in this behalf may, after giving prior notice to the owner or occupier of any land

- (a) enter upon such land as he may think necessary for the said purpose ;
- (b) undertake surveys or take levels thereon ;
- (c) conduct pumping tests and geophysical surveys ;
- (d) install and maintain water level recorder and water gauges on the well; and
- (e) do all such other things as may be necessary for the prosecution of such inquiry and examination.

11. Power to stop contravention of the provisions of section 3, 5, 7, 8 or 9 :-

(1) Whenever it appears to the Appropriate Authority that any well has been sunk or is being sunk in contravention of the provisions of section 3 or 7 or water has been extracted or is being extracted in contravention of section 5, 8 or 9, the Appropriate Authority or an officer duly authorised by it in this behalf may enter upon that land, remove obstruction, if any, close the pumping of the water, disconnect water supply, seize any material or equipment used in connection with such extraction of water and take any such action, as may be required to stop such contravention and may, by order, require the owner or the person in possession of the well to close or seal off the well at his expenses and in such manner as the Appropriate Authority may specify in such order and such owner or person shall comply with such order.

(2) Where such owner or person fails to comply with any order made under sub-section (1), the Appropriate Authority may, after giving such owner or person due notice in that behalf, enter upon the land and close or seal off the well and the cost incurred therefor shall be recoverable from such owner or person as an arrear of land revenue.

12. Payment of compensation :-

When an order of permanently closing down or sealing off the well is made under section 9, the Appropriate Authority may, on making such inquiry and requiring the owner to produce such evidence as it may deem necessary, make an order for payment of compensation which shall not be less than the market value of the well and structures thereon and the provisions of the Land Acquisition Act, 1894 (I of 1894), with regard to the determination of compensation of the well shall apply in determining the market value of the well under this section as they apply to the well acquired under that Act:

Provided that, where an order under section 9 relates to temporarily closing down or sealing off a well, water from which is used for the irrigated crops standing at the time of making such an order, the compensation for such crops shall also be payable under this section:

Provided further that, where by virtue of an order made under section 9 any well which is permanently closed or sealed off is, for

any reason whatsoever, allowed to be opened for extracting water therefrom, any subsequent order made for permanently closing down or sealing off such well again shall not entitle the owner thereof to claim compensation for such well again.

13. Bar to claim compensation :-

Subject to the provisions of section 12, no person shall be entitled to claim any damages or compensation from the State Government for any loss sustained by him as a result of any order passed under clause (a) of sub-section (5) of section 3, or under section 8 or 11 or by virtue of any action taken under this Act.

CHAPTER 3

Miscellaneous

14. Appeals :-

(1) Any person aggrieved by any order, made by the Appropriate Authority under any of the provisions of this Act may, within a period of thirty days from the date of receipt of the order by him, appeal to the Collector, if the order is made by any officer other than the Collector, and to the Commissioner, if the order is made by the Collector. On receipt of such appeal, the Appellate Authority shall, after giving reasonable opportunity to the appellant of being heard and permitted to lead evidence pass such order as it may think fit. Every order made by the Appellate Authority in such appeal shall be final and shall not be called in question in any Court

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Explanation For the purposes of this sub-section, the expression "person aggrieved" includes a local authority, the Maharashtra Water Supply and Sewerage Board, The Ground Water Survey and Development Agency and any other agency or authority entrusted with the responsibility of supplying drinking water to the public.

(2) Before giving any decision in such appeal, the Appellate Authority shall obtain the opinion of the Senior Geologist and shall take the same also in consideration.

(3) The Senior Geologist shall forward his opinion to the Appellate Authority within two months from the date of receipt by him of a reference in that behalf.

(4) Save as otherwise provided in sub-section (1), every order made and every direction issued under this Act shall be final and

shall not be called in question in any Court.

15. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceeding shall lie against any public servant or person appointed or authorised under this Act in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order made or direction issued under this Act.

(2) No suit or other legal proceeding shall lie against the State Government or any officer of the State Government for any damage caused or likely to be caused by anything, which is in good faith done or intended to be done under this Act or in pursuance of any order made or direction issued under this Act.

16. Penalty :-

(1) Whoever contravenes any of the provisions of this Act or obstructs any person in the discharge of his duties under this Act or contravenes any order or violates any rule made under this Act shall, on conviction, be punished with imprisonment which shall not be less than one month but may extend to six months or with fine which shall not be less than one thousand rupees but may extend to five thousand rupees or with both.

(2) Whoever, without proper authority, damages, alters or obstructs any part of the public water-supply system shall, be punished with imprisonment which shall not be less than two months but may extend to one year or with fine which shall not be less than two thousand rupees but may extend to five thousand rupees or with both.

(3) In the case of a continuing offence, the offender shall be punished with an additional fine which may extend to rupees hundred for every day during which such offence continues after the conviction.

17. Service of notice :-

(1) Subject to the rules, if any, made in this behalf, -every notice or order issued under this Act may be served either by tendering or delivering a copy thereof, or by post to the person on whom it is to be served, or his authorised agent or, if service in the manner aforesaid cannot be made, by affixing a copy thereof, at his last known place of residence or at such place of public resort in the

village in which the land or well to which the notice or order relates is situated.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person or in the description of any land or well, referred to therein, unless such error has produced substantial injustice.

18. Over-riding effect of the Act :-

The provisions of this Act and the order issued or made thereunder have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

19. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act. Such rules may provide for charging fees for any of the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

20. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order, do anything, which appears to it to be necessary or expedient to remove the difficulty:

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.