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Planning Commission Model Bill for the Conservation, Protection and Regulation of Groundwater, 2011

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**Report
of
The Steering Committee
on Water Resources
and Sanitation
for
Twelfth Five Year Plan
(2012-2017)**



**Government of India
Planning Commission
New Delhi**

January, 2012

ANNEXURE 2

DRAFT MODEL BILL FOR THE CONSERVATION, PROTECTION AND REGULATION OF GROUNDWATER

Preamble

Recognising the unitary nature of water and the integration of surface water and groundwater;

Recognizing that natural resources constitute an integral whole and must be treated as such;

Recognising the need to realise constitutional guarantees linked to groundwater and whereas the Supreme Court of India has recognised the right to water as integral to the right to life; and further specified variously the corresponding duties of the state;

Recognizing the need to strengthen the regulatory powers of gram sabhas, panchayats and municipal bodies related to groundwater in line with Articles 243G and 243W of the Constitution;

Recognizing that diverse conditions and needs require different specific solutions and recognising the need to differentiate rural and urban areas, while providing a single legal framework;

Recognising the need to resolve contestation and conflict not only between users of groundwater but also between different types of uses;

Recognising the common pool nature of groundwater, which has an intricate relationship with rainwater and surface water (through natural recharge) and with surface water (natural discharge);

Acknowledging that various levels of groundwater protection are necessary, the highest priority being given to areas demarcated as groundwater protection zones that need to be established and protected, and that shall be accorded the highest priority in both planning and management:

Be it enacted by the State Legislature in the _____ year of the Republic of India, as follows:

Chapter 1 – Preliminary

Short Title, Extent and Commencement

- 1 This Act may be called the _____ Act for the Protection, Conservation and Regulation of Groundwater, _____⁴¹.
- 2 It extends to whole of the State of _____.
- 3 It shall come into force ninety days after its adoption by the state legislature.

⁴¹ Year of enactment

Objectives

- i. The objectives of this Act are to ensure that groundwater is protected, conserved and regulated so as to:
 - 1 Meet basic human needs and livestock needs;
 - 2 Promote sustainable groundwater use in the public interest, based on a long-term protection of available resources;
 - 3 Ensure that the protection, conservation and regulation of groundwater is integrated with the protection, conservation and regulation of surface water to ensure conjunctive use of surface water and groundwater;
 - 4 Ensure the implementation of the principle of subsidiarity;
 - 5 Protect ecosystems and their biological diversity;
 - 6 Reduce and prevent pollution and degradation of groundwater;
 - 7 Ensure that present and future generations have access to sufficient quantity and quality of basic water; and
 - 8 Ensure protection against gender discrimination and past inequalities in access to water.

Definitions

- In this Act, unless the context otherwise requires:
 - ‘Aquifer’ is a geological formation that stores and transmits water;
 - ‘Appropriate authority’ is the lowest possible public authority, including gram sabhas, gram panchayats, block panchayats, district panchayats, ward sabhas, municipal authorities and the State Government;
 - ‘Artificial recharge area’ includes catchment areas of percolation tanks, recharge ponds, infiltration tanks and all such appropriate measures from where water is harvested for recharge to aquifers.
 - ‘Basic water’ means the basic safe water requirements of each human being for drinking, cooking, bathing, sanitation, personal hygiene and related personal or domestic uses, with an additional requirement for women for their special needs; and includes water required for domestic livestock;
 - ‘Gram Sabha’ refers to the assembly of persons whose names are included in the electoral rolls at the village level;
 - ‘Groundwater’ means water, which exists below the surface in the zone of saturation and can be extracted through wells or any other means or emerges as springs and base flows in streams and rivers;
 - ‘Groundwater Protection Zone 1’ refers to critical natural recharge areas of an aquifer and those areas that require special attention with regard to the artificial recharge of groundwater and shall

include areas at and around natural discharge from the aquifer, specifically in the form of springs, seepages to streams, rivers and wetlands:

Explanation: (i) Areas comprising Groundwater Protection Zone 1 shall not be compromised in any way that will reduce, obliterate and hinder the natural recharge functions of the aquifer.

(ii) Areas comprising Groundwater Protection Zone 1 shall include vulnerable areas that require special attention and regulation, including areas affected by presence of arsenic and fluoride in groundwater and areas where groundwater has suffered saline water ingress.

- ‘Groundwater Protection Zone 2’ refers to areas from which groundwater is extracted through wells and other such groundwater extraction mechanisms, and where problems of groundwater over-extraction or contamination or both are evident on the basis of assessments made from time-to-time.
- ‘Groundwater Security Plan’ means an aquifer-based plan, as prepared under Sections 14-16 of this Act;
- ‘Livelihood’ means an activity or occupation or employment including self-employment that provides sustenance to an individual or family;
- ‘Municipality’ refers to a Municipality, a Municipal Corporation or similar body of local urban governance by any other name;
- ‘Pollutant’ means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, harmful to groundwater and impacting human and non-human life;
- ‘Rainwater harvesting’ means the technique or system of collection and storage of rainwater, at micro watershed scale, including roof-top harvesting, for future use or for recharge of groundwater;
- ‘Safe yield’ means the amount of water which may be abstracted from an aquifer at a rate that will not reduce the supply to such an extent that it would not be recharged to the original level by the annual natural recharging process of that locality and, as such, rendering such abstraction harmful to the aquifer, quality of the water or environment;
- ‘Ward Sabha’ means a body consisting of persons registered in the electoral rolls relating to a Ward;
- ‘Well’ means any structure sunk for the search or extraction of groundwater, including open wells, dug wells, bore wells, dug-cum-bore wells, tube wells, filter points, collector wells, infiltration galleries, recharge wells, disposal well or any of their combinations or variations.
- Terms not defined in this Act have the meaning assigned to them under other laws.

Chapter 2 – Mandatory Principles for Protection, Conservation and Regulation of Groundwater

Non-discrimination and Equity

- a) Every person shall have access to water without any discrimination, including as to caste, creed, economic status, land ownership, place of birth, race, religion and sex.
- b) In case groundwater forms the only source of water supply in an area, the principle in sub-section (a) specifically extends to groundwater resources.
- The appropriate authority shall ensure equitable distribution and access to groundwater strictly in compliance with priorities prescribed under Section 10 of this Act and in consonance with Section 8 of this Act.
- The appropriate authority shall ensure the sustainable use of available groundwater without compromising the needs of future generations.

Subsidiarity and Decentralisation

7. Conservation, use and regulation of groundwater shall be based on the principle of subsidiarity.
8. The constitutional provisions for decentralisation of powers and functions in urban and rural areas shall be the basic organising principle for conservation, protection and regulation of groundwater.
9. Different conservation, protection and regulation measures may be used in different parts of the state in accordance with the availability of groundwater in a specific aquifer and the nature and type of groundwater catchments.

Protection, Precaution and Prior Assessment

- Groundwater resources (aquifers) shall be protected from such impacts that affect the equity of access and sustainability of the resource.
- Precautionary steps shall be taken by the appropriate authority at all levels and by every user of groundwater to protect it from depletion, deterioration, biological and chemical pollution, as well as to prevent and/or reduce adverse impacts on the environment due to the use of groundwater.
- Effective schemes and measures shall be formulated and implemented to conserve, replenish and recharge groundwater.
- Any single use of groundwater, surface water or land and forest resources or activity in relation to these resources, which is likely to have significant negative impacts on local sources of groundwater shall be subjected to an environmental and social impact assessment, as defined at Section 43 of this Act, and protective, preventive and precautionary measures shall be implemented accordingly.

Integrated Approach

- The protection, conservation and regulation of groundwater shall be undertaken in such a way that it is integrated with the protection, conservation and regulation of surface water resources on a watershed basis, land and forest.

Chapter 3 – Right to Water, Legal Status and Groundwater Use

Right to Water

- Every natural person has the fundamental right to be provided basic water of acceptable quality for leading a healthy and dignified life.

Legal Status of Groundwater

- Groundwater is the common heritage of the people of India held in trust, for the use of all, subject to reasonable restrictions to protect all water and associated ecosystems. In its natural state, it is not amenable to ownership by the state, communities or persons.

Explanation: In this section, groundwater refers to the resource defined by aquifers.

- The state at all levels is the public trustee of groundwater.
- The appropriate authority must ensure that water is protected, used, developed, conserved, managed and regulated in a sustainable and equitable manner, for the benefit of all persons and ecosystems.
- Without limiting sub-section (3), the appropriate authority is responsible for ensuring that water is allocated and used equitably in the public interest, while promoting environmental values.

Water Use Prioritisation

- The appropriate authority shall abide by the water use prioritisation set out in this section while discharging its duties as trustee of groundwater.
- The first priority and charge on groundwater shall be meeting the right to basic water for rural and urban residents, consistent with the objective of sustaining aquifers and ecosystems indispensable to the long-term maintenance of the resource.
- Other priorities will be allocated among primary and secondary uses.
- Primary groundwater uses, besides basic water and ecology mentioned in sub-section (2), shall include in no order of priority:
 - Direct use of groundwater for livelihoods, including agriculture and non-agriculture based livelihoods; and
 - Municipal use, including public facilities for recreation.
- Secondary water uses shall include in no order of priority:
 - Commercial activities, including power generation, industry and large-scale commercial farms;

- Private facilities for recreation; and
- Other purposes.
- The use or appropriation of water for secondary purposes, which is likely to have significant negative impacts on local sources of groundwater, shall be subjected to an environmental and social impact assessment, as provided under Section 43 of this Act.

Chapter 4 – Groundwater Protection Zones and Groundwater Security Plans

1. Groundwater Protection Zones

Demarcation of Groundwater Protection Zones

4. Groundwater protection zones shall be demarcated in order to:
 - Protect the natural recharge and discharge areas of the aquifer from threats such as physical deterioration, including loss of exposed surface area, change in land-use pattern and causation of chemical and other pollution;
 - Protect the natural identity of the aquifer and the needs of groundwater dependent ecosystems;
 - Protect vulnerable areas that require special attention and regulation, including areas affected by presence of arsenic and fluoride in groundwater and areas where groundwater has suffered saline water ingress;
 - Provide for sufficient quantity and safe quality water required to meet the basic water supply for human and animal needs; and
 - Provide for water for livelihoods.
5. The demarcation of groundwater protection zones shall take into account all the following factors:
 - Existing uses and users of the aquifer;
 - Existing water uses and users in the recharge area(s);
 - Availability and quality of groundwater in the aquifer;
 - Social, environmental and economic implications of the demarcation;
 - The need for the demarcation of such recharge areas into groundwater protection zones in terms of their capacity or need to solve groundwater depletion and/or contamination; and
 - Availability or existence of other options or alternative measures.

Procedure for Demarcation and Notification of Groundwater Protection Zones

- The State Groundwater Board shall, in consultation with appropriate authorities constituted under this Act, including information and monitoring cells constituted under this Act and supporting institutions

notified under this Act, demarcate natural or artificial recharge areas of an aquifer or aquifers as groundwater protection zones.

- The State Groundwater Board may also consult any other institution or agency to assist with the demarcation of groundwater protection zones.
- The State Groundwater Board may call for technical data and evidence from information and monitoring cells, supporting institutions or any other agencies mandated or obliged under law to maintain such technical data and evidence. The State Groundwater Board may also approach central agencies such as the Central Groundwater Board and Central Water Commission for this purpose.
- The State Groundwater Board shall prepare proposals for the demarcation of groundwater protection zones based on the aquifer-mapping programme that identifies groundwater protection zones, along with their current status.
- In addition to compliance with the provisions of Chapter 10 concerning public consultation and transparency, the proposals for demarcation and declaration of each groundwater protection zone shall be notified to the public and the appropriate institution by a preliminary notice in the Gazette and in at least two local language newspapers having circulation in the area concerned.
- The State Groundwater Board shall submit proposals for demarcation and declaration of each groundwater protection zone to the appropriate authorities – namely gram sabhas, ward sabhas, gram panchayats, block panchayats, district panchayats, municipal authorities and the State Government as the case may be – falling within the geographical limits of each of zone, for discussion and approval, with or without modification.
- If the appropriate authority feels that the proposal of the State Groundwater Board needs revision or is invalid, it shall file a representation before the State Groundwater Board within 30 days from the formal submission of the proposal under sub-section (5) of this section. Consultations will then be held with the State Groundwater Board to come to a final decision within 45 days of the filing of the representation:

Provided that if an amicable final decision is not possible the matter shall be decided by arbitration and the arbitrator shall be appointed by the State Government.

- a) Objections, if any, against the proposed declaration of any area as a groundwater protection zone, shall be made before the appropriate authority within a period of 60 days from the date of publication of the notice.
- b) Any person preferring the objection shall provide the grounds of objection, supported, where possible, by technical data and evidence.
- c) The technical data, requested for filing objections, shall be made available to such persons immediately.
- d) If any delay is caused in providing the requested data/information, the period allowed for filing objection shall be extended in proportion to the delay.
- e) The objections shall be considered by the appropriate authority, which, with the consultation of both parties (the State Government and the objecting party) shall arrive at the final decision.

- f) The final decision shall be binding on both parties.
- g) The appropriate authority shall notify its decision within a period of 45 days from the formal submission of the objection.
- If no objections or representations referred to in sub-sections (6) and (7) have been filed within the period referred to in that sub-section, the appropriate authority shall declare the demarcated area to be a groundwater protection zone.
- Where a proposal to identify a groundwater protection zone has been approved, the State Groundwater Board shall notify the groundwater protection zone in the Gazette.
- a) The notification issued under sub-section (9) above shall be reviewed periodically.
- b) The review shall be due on completion of three years and shall be done before the expiry of five years from the date of notification.
- c) On expiry of the above mentioned period, a fresh review shall be conducted based on a new assessment of the aquifer.
- All the steps prescribed above shall be completed within a period of six months from the date of preparation of the proposal by the State Groundwater Board.

Regulation of Groundwater Protection Zones

1. Groundwater protection zones will be accorded the highest priority in terms of groundwater protection and regulation.
2. Appropriate authorities shall take all possible measures to conserve and protect groundwater protection zones, in particular in the context of groundwater security plans.
3. Wherever an area has been notified as a Groundwater Protection Zone 1:
 - a) No extraction or use of groundwater, apart from use as basic water, except under special sanction by the appropriate authority, shall be allowed in the Groundwater Protection Zone; and
 - b) Rules regarding, among others, forestation and deforestation, a prohibition of waste disposal of any kind and the banning of any mining lease shall be developed and implemented by the appropriate authority in the manner prescribed.
4. Wherever an area has been notified as a Groundwater Protection Zone 2, a set of rules regarding distance (from structures created or activities taken up to augment and/or protect recharge, including percolation tanks, recharge ponds, and social fencing of natural recharge areas) to new wells, pumping regulation for existing wells as well as other regulatory protocols shall be developed depending upon hydrogeological and socio-economic conditions.
5. The regulation of groundwater protection zones shall incorporate appropriate energy pricing and energy rationing means as additional instruments in areas where abstraction is above the safe yield.

Explanation: This sub-section shall not preclude adoption of appropriate energy pricing and energy rationing means in other areas that the State may prescribe from time to time.

6. Wherever an area has been notified as a Groundwater Protection Zone 2, groundwater shall be allocated and extracted in a regulated manner, so as to maintain the water balance in the concerned aquifers. To achieve this, the appropriate authority, with the help of information and monitoring cells and supporting institutions shall:
 - a) Determine the safe yield of any aquifer coming under the purview of the respective protection zones;
 - b) Require that an aquifer be used on an equitable and sustainable basis, including restricting abstractions so that they do not, individually or collectively, exceed the safe yield of the aquifer; and
 - c) Carry out programmes for the recharge of aquifers:

Provided that where the area suffers from a severe long-term drought, extraction beyond the annual recharge may be allowed for basic water needs on the condition that in subsequent years of adequate rainfall, additional recharge measures shall be taken to compensate the extra withdrawal.

2. Groundwater Security Plans

Preparation of Groundwater Security Plans

1. The appropriate authority shall prepare and oversee the implementation of a Groundwater Security Plan in consultation with elected local bodies and in consultation and coordination with information and monitoring cells and supporting institutions.
2. The Groundwater Security Plan shall be prepared at the lowest possible administrative level, taking into account the fact that where an aquifer does not fall under the jurisdiction of a single gram panchayat, block, district, ward or municipality, the plan must be prepared at the level of the authority under whose jurisdiction the whole aquifer falls:

Provided that where the aquifer extends beyond the boundaries of the State, the State Government shall prepare the Groundwater Security Plan in coordination with other state(s) under whose jurisdiction the aquifer also falls.

3. A groundwater security plan shall be prepared for every aquifer falling partly or entirely under a groundwater protection zone defined in Section 11 of this Act and where an aquifer does not fall under any groundwater protection zone, the appropriate authority may determine necessary measures to be taken, including the preparation and the implementation of groundwater security plans.
4. The Groundwater Security Plan shall be based on scientific maps and database provided by information and monitoring cells and supporting institutions and on a determination of the estimated average annual recharge of groundwater.

Content of the Groundwater Security Plan

1. The aquifer-based Groundwater Security Plan shall provide for groundwater conservation and augmentation measures, socially equitable use and regulation of groundwater, and priorities for conjunctive use of surface and groundwater.

2. The Groundwater Security Plan shall contain, besides a description of groundwater aquifers and catchments, a statement of rights, duties, management responsibilities, priorities of use and tariffs, if any.
3. The Groundwater Security Plan shall incorporate customary rules and practices for protection of groundwater, to the extent that they do not conflict with the mandatory principles under Chapter 2 of this Act and the appropriate authority shall document customary practices as part of the preparation of the Groundwater Security Plan.
4. The Groundwater Security Plan shall be based on the principle that transfers of water outside of the area concerned by the Plan are prohibited, unless the appropriate authority agrees by a three-fourth majority or a decision to this effect is taken by the appropriate authority at the next higher level, where the basic water needs of other panchayats, blocks, districts, wards and municipalities cannot be met without a transfer.
5.
 - a) Where there is more than one micro-watershed within the area under consideration separate sub-plans for each micro-watershed shall be prepared.
 - b) The Groundwater Security Plan prepared by the appropriate authority shall integrate them in a consolidated plan.
 - c) Where micro-watersheds straddle beyond the jurisdiction of the appropriate authority, the Groundwater Security Plan shall be prepared by a committee drawn from the appropriate authorities of each authority under which the micro-watershed is found in proportional number to the extent of area falling under the jurisdiction of each concerned appropriate authority.
 - d) Groundwater security plans shall be integrated at the mili-watershed level and at the macro-watershed level with the assistance of information and monitoring cells and supporting institutions, in consonance with groundwater aquifer boundaries and surface river basin boundaries.
6. The Groundwater Security Plan shall include remedial measures, including:
 - a) Incentives for weaning out water-intensive crops and sanctions against continuing water-intensive crops;
 - b) Incentives for the adoption of water-conserving technologies, such as drip irrigation and sprinklers;
 - c) Setting up artificial recharge structures;
 - d) Promoting the use of energy-efficient pumps;
 - e) Community based sharing of groundwater from a more limited number of wells; and
 - f) Other measures as may be appropriate to the specific aquifer or the situation under which groundwater overexploitation has occurred.

Adoption and Validity of the Groundwater Security Plan

1.
 - a) The Groundwater Security Plan, formally adopted by the appropriate authority and endorsed by the State Groundwater Advisory Council, shall be binding.

- b) The State Groundwater Advisory Council shall have the responsibility to notify the plan.
 - c) The Groundwater Security Plan shall be binding from the date of notification.
2. The Groundwater Security Plan shall be valid for a period of five years from the date on which it becomes binding. It shall be revalidated or amended after every five years:

Provided that where compelling reasons, such as significant hydrological changes or drought, warrant it, revision or amendment may be made before the expiry of five years.

Chapter 5 – Institutional Framework

1. Rural Areas

1. GRAM PANCHAYAT GROUNDWATER COMMITTEE

Constitution and Membership of the Gram Panchayat Groundwater Committee

- The Gram Sabha shall by resolution, recorded by the Gram Panchayat, elect a Gram Panchayat Groundwater Committee:

Provided that where there exists a village water and sanitation committee under the jurisdiction of the panchayat and the Gram Sabha resolves to vest all the functions and powers of the Gram Panchayat Groundwater Committee under this Act to such village water and sanitation committee, then the latter committee shall be the Gram Panchayat Groundwater Committee under this Act.

- The strength of the committee, the qualifications of the members and the terms and conditions under which they hold office shall be as prescribed by the Gram Sabha.
- In constituting the Gram Panchayat Groundwater Committee, adequate representation shall be given to scheduled castes, tribes and women:

Provided that in places where gram panchayat level watershed and irrigation committees or institutions exist, the Gram Panchayat Groundwater Committee shall include representatives of those committees;

Provided further that the Gram Panchayat Groundwater Committee may also include representatives of community-based groups, such as self-help groups and women's groups.

- Every member of the Gram Panchayat Groundwater Committee shall forthwith be deemed to have vacated her or his office if she or he is recalled through a secret ballot by a majority of more than half of the total number of members constituting the Gram Sabha within the gram panchayat in accordance with the procedure, as may be prescribed:

Provided that any member shall be recalled only on the ground of actions done by the member in violation of the powers, functions, duties and responsibilities of the Gram Panchayat Groundwater Committee;

Provided further that where a member is recalled, the Gram Sabha shall elect another representative in her or his place within a period of sixty days of recall of such member.

Functions of the Gram Panchayat Groundwater Committee

- The functions of the Gram Panchayat Groundwater Committee shall include:
 - Preparation of the Panchayat Groundwater Security Plan and presentation of the same to the Gram Sabha for approval:

Provided that the Gram Panchayat Groundwater Committee shall ensure, while preparing the Plan, that it complements and is integrated with other water-related plans, such as drinking water security plans that may be required under other laws or government schemes.
 - Implementation of the Panchayat Groundwater Security Plan;
 - Registration of all wells and other sources such as springs within the gram panchayat boundaries used for secondary uses as defined at Section 10 of this Act;
 - Registration of all wells and other water sources such as springs within the gram panchayat boundaries found in areas declared as groundwater protection zones;
 - Collection of information from all source including persons or agencies engaged in activities, such as drilling of tube wells and construction of open wells and to discharge this function the Gram Panchayat Groundwater Committee shall obtain a log from drilling agencies;
 - Granting of permits under Sections 37-40 of this Act; and
 - Regulation of use of groundwater sources within the gram panchayat boundaries, except domestic wells using pumps of 1.5 hp or less.

2. BLOCK PANCHAYAT GROUNDWATER COMMITTEE

Constitution and Membership of the Block Panchayat Groundwater Committee

- Every block panchayat shall form a Block Panchayat Groundwater Committee.
- The strength of the committee, the qualifications of the members and the terms and conditions under which they holds office shall be as prescribed by the Block Panchayat:
- In constituting the Block Panchayat Groundwater Committee, adequate representation shall be given to scheduled castes, tribes and women:

Provided that in areas where block panchayat level water and sanitation, watershed and irrigation committees or institutions exist, the committee must include representatives of those committees.

- Every member of the Block Panchayat Groundwater Committee shall be liable to be recalled by the Block Panchayat. Recalling shall be made by the Block Panchayat by a resolution passed by the majority of the total membership. Recalling shall be made only on the ground of actions done by the member in violation of the powers, functions, duties and responsibilities of the Block Panchayat Groundwater Committee. Where a member is recalled, the Block Panchayat shall elect another representative in his or her place.

- The Block Panchayat Groundwater Committee shall be assisted by information and monitoring cells and supporting institutions in effective monitoring of groundwater extraction and groundwater quality, protection and recharge of groundwater aquifers.

Functions of the Block Panchayat Groundwater Committee

- i. The functions of the Block Panchayat Groundwater Committee shall include:
 - Consolidation of gram panchayat groundwater security plans into a Block Groundwater Security Plan on a mili-watershed and macro-watershed basis, with the assistance of the Block Groundwater Information and Monitoring Cell;
 - Coordination of the planning process between panchayats sharing aquifers where the aquifer boundary does not correspond with boundaries of a single panchayat. In the case of local aquifers, the same would apply to watersheds shared by panchayats, especially watersheds that include multiple aquifers.
 - Monitoring and supervising implementation of gram panchayat groundwater security plans in terms of the block level plan;
 - Advising and recommending changes and modifications of gram panchayat groundwater security plans on the basis of information provided by information and monitoring cells and supporting institutions;
 - Ensuring that the groundwater security plan of a panchayat does not restrict the options of another panchayat;
 - Determining groundwater protection zones straddling more than one panchayat within the territory of the block and adopting norms for their management and regulation;
 - Granting of permits under Section 37-40 of this Act; and
 - Ensuring in times of groundwater scarcity that groundwater security plans do not come in the way of the sharing of available groundwater among panchayats in the block.

2. Urban Areas

1. WARD GROUNDWATER COMMITTEE

Constitution and Membership of the Ward Groundwater Committee

- Every ward of a municipality, where groundwater is extracted for any use, shall form a Ward Groundwater Committee.
- The strength of the committee, the qualifications of the members and the terms and conditions under which they hold office shall be as prescribed by the Ward Sabha:
- The Ward Sabha shall ensure proportional representation for scheduled castes, tribes and women.
- Every member of the Ward Groundwater Committee shall forthwith be deemed to have vacated her or his office if she or he is recalled through a secret ballot by a majority of more than half of the total

number of members constituting the Ward Sabha within the ward in accordance with the procedure, as may be prescribed:

Provided that any member shall be recalled only on the ground of actions done by the member in violation of the powers, functions, duties and responsibilities of the Ward Groundwater Committee;

Provided further that where a member is recalled, the Ward Sabha shall elect another representative in her or his place within a period of sixty days of recall of such member.

Functions of the Ward Groundwater Committee

- The functions of the Ward Groundwater Committee shall include:
 - Preparing and overseeing the implementation the Ward Groundwater Security Plan with the consent of the Ward Sabha;
 - Determining groundwater protection zones within the territory of the ward and adopting norms for their management and regulation;
 - Registration of all wells and other sources such as springs within the ward boundaries used for secondary uses as defined at Section 10 of this Act;
 - Registration of all wells and other water sources such as springs within the ward boundaries found in areas declared as groundwater protection zones;
 - Granting of permits under Section 37-40 of this Act; and
 - Regulating the use of groundwater sources within the ward boundaries, except domestic wells using pumps of 1.5 hp or less.

2. MUNICIPAL GROUNDWATER COMMITTEE

Constitution and Membership of the Municipal Groundwater Committee

- Every Municipality shall form a Municipal Groundwater Committee.
- The strength of the committee, the qualifications of the members and the terms and conditions under which they holds office shall be as prescribed by the Municipal Council:
- The Municipal Council shall ensure proportional representation for scheduled castes, tribes and women.
- Every member of the Municipal Groundwater Committee shall forthwith be deemed to have vacated her or his office if she or he is recalled through a secret ballot by a majority of more than half of the Municipal Council in accordance with the procedure, as may be prescribed:

Provided that any member shall be recalled only on the ground of actions done by the member in violation of the powers, functions, duties and responsibilities of the Municipal Groundwater Committee;

Provided further that where a member is recalled, the Municipal Council shall elect another representative in her or his place within a period of sixty days of recall of such member.

- The Municipal Groundwater Committee shall work in close coordination with other water-related institutions within the municipality, in particular with the institution providing water and sewerage services, if any.

Functions

- The functions of the Municipal Groundwater Committee shall include:
 - Endorsing ward groundwater security plans where they have been prepared;
 - Preparing a consolidated Municipal Groundwater Security Plan based on ward plans for the same, on a mili- and macro-watershed basis;
 - Determination of groundwater protection zones straddling more than one ward within the territory of the municipality and adopting norms for their management and regulation;
 - Granting of permits under Sections 37-40 of this Act; and
 - Coordinating measures taken at the ward level.

3. District Groundwater Council and State Groundwater Advisory Council

1. DISTRICT GROUNDWATER COUNCIL

Constitution and Membership of the District Groundwater Council

- Every district shall form a District Groundwater Council, consisting of one representative from each of the block panchayat groundwater committees and the municipal groundwater committees.
- The strength of the committee, the qualifications of the members and the terms and conditions under which they hold office shall be as prescribed by the District Panchayat:
- The District Panchayat shall ensure proportional representation for scheduled castes, tribes and women.
- Every member of the District Groundwater Committee shall forthwith be deemed to have vacated her or his office if she or he is recalled through a secret ballot by a majority of more than half of the District Panchayat in accordance with the procedure, as may be prescribed:

Provided that any member shall be recalled only on the ground of actions done by the member in violation of the powers, functions, duties and responsibilities of the District Groundwater Committee;

Provided further that where a member is recalled, the District Panchayat shall elect another representative in her or his place within a period of sixty days of recall of such member.

- The District Groundwater Council shall be assisted in its functioning by information and monitoring cells and supporting institutions.

Functions of the District Groundwater Council

- The functions of the District Groundwater Council shall include:

- Preparing a consolidated District Groundwater Security Plan based on block and municipal plans for the same, on a macro-watershed basis;
- Reconciling the groundwater security plans of the blocks and municipalities within the district;
- Determining groundwater protection zones straddling more than one block and/or municipality within the territory of the district and adopting norms for their management and regulation;
- Take appropriate measures to foster the transfer of groundwater to panchayats, blocks and municipalities whose groundwater availability is insufficient to meet primary groundwater uses; and
- Coordinating measures taken at the block and municipal level.

2. STATE GROUNDWATER ADVISORY COUNCIL

Constitution and Membership of the State Groundwater Advisory Council

- i) The State Government shall, by notification, establish, with effect from such date as may be specified in the notification, a Council at the State level to be known as the State Groundwater Advisory Council.
- ii) Where a State Groundwater Authority exists, it shall act as State Groundwater Advisory Council. Where it does not, the State Government shall set up a Council comprising of:
 - 1 One representative of the Central Groundwater Board;
 - 2 One representative of the State Groundwater Board;
 - 3 Member Secretary of the State Pollution Control Board;
 - 4 An officer not below the rank of Chief Engineer of the Irrigation or Water Resources Department;
 - 5 An officer not below the rank of Joint Secretary of the Department of Panchayats and Rural Development;
 - 6 An officer not below the rank of Chief Engineer of the Public Health and Engineering Department or State Water and Sanitation Mission;
 - 7 An officer not below the rank of Joint Secretary of the Department of Industries;
 - 8 Two representatives from gram panchayat groundwater committees;
 - 9 Two representatives from block panchayat groundwater committees;
 - 10 Two representatives from district groundwater councils;
 - 11 Two representatives from ward groundwater committees;
 - 12 Two representatives from municipal groundwater committees; and
 - 13 Two independent experts having experience in hydrogeology, ecology or social science.

- iii) The State Groundwater Advisory Council shall be supported by the State Groundwater Department, the Water Department in the absence of the former or any other department dealing with water resources.

Functions

- 1 The State Groundwater Advisory Council shall provide advice and support to all groundwater bodies constituted under this Act.
- 2 The State Groundwater Advisory Council shall in particular:
 - i. Endorse and notify groundwater security plans;
 - ii. Ensure that the conservation and use measures adopted in rural and urban areas do not contradict each other;
 - iii. Determine groundwater protection zones straddling more than one district within the territory of the state and adopting norms for their management and regulation;
 - iv. Maintain and monitor a database on the implementation of block and gram panchayat groundwater security plans;
 - v. Advise and recommend to district councils and municipalities changes and modifications in district and municipal groundwater security plans;
 - vi. Conduct awareness enhancement programmes at the district, block and village levels;
 - vii. Conduct capacity building programmes at the district and block levels;
 - viii. Collect information from groundwater based source creation activities, such as drilling of tube wells or construction of dug wells, with the help of gram panchayat groundwater committees.

4. Information and Monitoring Cells and Supporting Institutions

Constitution of Information and Monitoring Cells

- 1 District groundwater information and monitoring cells, block groundwater information and monitoring cells and municipal groundwater information and monitoring cells shall be constituted to assist and help the appropriate authority for the effective implementation of this Act.
- 2 These cells will draw on existing institutional, scientific and technical capacity at all levels within the state, in particular the State Groundwater Department and its district offices or the State Pollution Control Board and its district offices.

Notification of Additional Supporting Institutions

1. The State Government may also notify agencies constituted under law, which the State Government may think suitable to assist and help the appropriate authority for the effective implementation of this Act:

Provided that suitable institutions may include, the State Groundwater Department, the State Pollution Control Board, the Groundwater Department, the Public Health Engineering Department,

the Irrigation Department, the Water Resource Department, the Department of Forests, the State Water and Sanitation Mission, zonal/regional offices of the Central Groundwater Board, block resource centres (National Rural Drinking Water Programme), water user associations and biodiversity management committees.

Functions of Supporting Institutions

1. Information and monitoring cells constituted under Section 29 and supporting institutions notified under Section 30 shall be duty-bound to assist and help the appropriate authority as per demands from the appropriate authority from time to time.
2. Information and monitoring cells and supporting institutions shall deliver the required assistance within a reasonable time period, as specified by the appropriate authority:

Provided that information and monitoring cells and supporting institutions may take longer than the time period specified by the appropriate authority on reasonable grounds, subject to the satisfaction of the appropriate authority.

3. The appropriate authority may seek assistance from information and monitoring cells and supporting institutions at the appropriate level for fulfilling its duties and functions under this Act and this may include assistance:
 - For the provision of information on groundwater for planning purposes;
 - For the preparation of groundwater security plans;
 - For the preparation of a format for the registration and details of wells;
 - To assist compliance with groundwater security plans;
 - To assist the process of social and environmental impact assessment;
 - To fix the terms and conditions of permits for extraction of groundwater for various uses;
 - For evaluating the damages caused by any user of groundwater to individuals, property and environment; and
 - For conducting studies and surveys where required.
4. The State Government shall, in a manner specified in Rules, require supporting institutions notified under this Act to:
 - a) Periodically evaluate and monitor groundwater availability and quality, and organise groundwater surveys to ascertain the status of groundwater and the user profile;
 - b) Make an inventory of surface water sources and catchments;
 - c) Prepare, publish and periodically update groundwater and surface water digital maps, including micro- and mili-watershed levels;
 - d) Prepare, publish and periodically update integrated river basin maps, including surface water, groundwater, land and forest resources;

- e) Set up and periodically update a groundwater digital database and a natural resource database management system;
- f) Make available data to appropriate authorities and the public;
- g) Conduct awareness enhancement programmes at the district, block, village, municipal and ward levels;
- h) Undertake capacity building measures to train institutions constituted under this Act;
- i) Mobilize the expertise and resources from any national or international specialized scientific or civil society or other institution for the purpose of enhancing the knowledge, understanding, dissemination and coordination of groundwater related issues relevant to the state; and
- j) Keep a register containing particulars of permits.

Chapter 6 – Duties of Groundwater Users, Water Harvesting, Recycling and Reuse, and Waterlogging

Duties of Groundwater Users

1. Every user of groundwater shall ensure that:
 - a) Groundwater is not wasted, depleted or contaminated and no substance that pollutes groundwater is directly discharged on or into the ground;
 - b) Groundwater is conserved through appropriate agricultural and industrial practices, including by giving priority to using recycled water;
 - c) Measures are taken to replenish or recharge groundwater, including in recharge zones, for instance, through afforestation and reforestation; and
 - d) Rules regarding groundwater protection zones are followed.
2. Whoever uses and manages surface water and land resources in a way that is inconsistent with the Groundwater Security Plan shall phase out such activities, in particular the release of any effluent that contaminates groundwater resources either temporarily or permanently.

Water Harvesting and Catchment Conservation

1. The appropriate authority shall encourage rainwater harvesting and catchment conservation as per geological conditions. It shall undertake all possible steps in integrated natural resources conservation, use and regulation for the augmentation of groundwater resources within its jurisdiction, through integration and convergence of all natural resources related developmental schemes and projects.
2. Notwithstanding anything contained in any other law for the time being in force, the gram panchayat groundwater committee or ward groundwater committee as the case may be, may impose stipulated conditions for providing rooftop rainwater harvesting structures in the building plan of an area of 50 m² or more. Such stipulations shall be binding on concerned government agencies sanctioning or

approving building plans. A building number, a tax assessment, and permanent water and electricity connections shall be extended only after compliance of the directions given in this regard.

3. Catchment conservation shall be done by using appropriate groundwater recharge structures or pits depending on the nature of the terrain/soil and condition/geology of the area.

Recycling and Re-use of Groundwater

1. The appropriate authority shall encourage recycling and, in particular, foster re-use of water for non-potable urban, industrial, and agricultural use, as well as augmentation of potable water supplies through indirect reuse.

Waterlogging

1. The appropriate authority shall discourage and prevent such activities that are likely to lead to potential waterlogging of land. It shall undertake all possible regulation for the protection of land against waterlogging within its jurisdiction.
2. The Gram Panchayat Groundwater Committee or Ward Groundwater Committee, as the case may be, may impose stipulated conditions for regulating activities in waterlogged areas that lead to worsening of the waterlogging condition. The gram panchayat/ward sabha, in consultation with the District Groundwater Information and Monitoring Cell, shall take steps to mitigate waterlogging through proper interventions related to soil treatment and land drainage.
3. Waterlogging mitigation measures shall be adopted by using appropriate processes and technologies, in due consultation with appropriate information and monitoring cells.

Chapter 7 – Basic Water from Groundwater Sources

Basic Water

1. Everyone is entitled to the same quantity of basic water regardless of, among others, caste, class, gender, economic status, land ownership and place of residence.
2. The quantity of basic water shall in no case be less than 70 litres per capita per day⁴² of groundwater and/or surface water, depending on their respective availability:

Provided that the state shall ensure that gram panchayats and municipalities are progressively able to provide at least 70 litres per capita per day.

3. Every drinking water supply agency extracting groundwater shall comply with the Manual of the Central Public Health and Environmental Engineering Organization, Bureau Indian Standards specifications or standards adopted by the State Government as modified or revised from time to time:

⁴² As provided for under Section 2(2), Ministry of Drinking Water and Sanitation, Strategic Plan 2011-2022 – Ensuring Drinking Water Security in Rural India (2011).

Provided that the Block Groundwater Information and Monitoring Cell or Municipal Groundwater Information and Monitoring Cell shall monitor compliance with these standards;

Provided further that information of these guidelines and standards shall be provided to groundwater committees and local elected bodies at village, block, district, ward and municipal level, and to water supply agencies by the State Groundwater Board, through the district and block level groundwater information and monitoring cells.

4. Where basic water is not provided by any drinking water supply agency, and people depend on groundwater for their basic water requirements, it shall be the duty of the Block Groundwater Information and Monitoring Cell, the District Groundwater Information and Monitoring Cell and the State Groundwater Board to provide information on water quality in accordance with the Manual of the Central Public Health and Environmental Engineering Organization, Bureau Indian Standards specifications or standards adopted by the State Government as modified or revised from time to time, and to suggest appropriate measures to be undertaken at local level for quality improvement to the local appropriate authority:

Provided that the appropriate authority shall take the suggested measures without unreasonable delay, which shall in no case be more than twelve months.

5. The supply of basic water from any groundwater source shall require consultation and concurrence of the Gram Panchayat Groundwater Committee or Ward Groundwater Committee.

Chapter 8 – Groundwater for Livelihoods and Irrigation

Groundwater for Livelihoods and Irrigation

1. Every person is entitled to use groundwater for their livelihood needs.
2. The livelihood pattern and the resultant needs should be incorporated in groundwater security plans.
3. The Groundwater Security Plan shall take into account the availability of water through surface water projects and provide for groundwater for the livelihood needs through an integrated approach:

Provided that in case of severe drought or where the area has been declared a Groundwater Protection Zone 2, limits may be imposed for restricting water use by the appropriate authority.

4. Major or medium irrigation projects using groundwater shall be based on a permit system allocated by the appropriate authority in consonance with the groundwater security plan. The procedure for issuing permits shall be the same as that outlined in Chapter 9.
5. Major or medium irrigation projects using groundwater may be subject to paying a water rate to the panchayat, as determined by the Gram Panchayat Groundwater Committee, to be used for groundwater conservation and augmentation activities.
6. In any area that has been declared a Groundwater Protection Zone 2 and where water intensive cash crops are grown, an undertaking shall be obtained for a change from water-intensive crops and such undertaking must be incorporated in the permit.

7. In the command areas of irrigation systems where water user associations have been established under the law, the said water user associations may levy and collect from the farmer or any other person using groundwater such fees, as they may deem appropriate.

Chapter 9 – Industrial, Commercial and Other Bulk Uses of Groundwater

Permits to Abstract Groundwater for Industrial Use or Infrastructure Projects

- a) No one shall abstract groundwater for industrial use or infrastructure projects without a permit issued by the appropriate authority, as defined in this chapter:

Explanation: Industrial use includes, but is not restricted to groundwater extracting industries, bottling plants and other commercial activities consuming more than 10 kl of groundwater a day and agencies – government or private – responsible for water supply using groundwater.

- b) No permit for industrial, commercial or other bulk uses of groundwater shall be granted in a Groundwater Protection Zone 1 and permits for industrial, commercial or other bulk uses of groundwater in a Groundwater Protection Zone 2 shall be granted only if such uses are in conformity with the provisions of the Groundwater Security Plan in the concerned area.

Procedure for Applying for Permits

1. Whoever has been abstracting groundwater for industrial use or infrastructure projects at the time of commencement of this Act, shall apply for a permit within 120 days of the commencement of this Act.
2. If on examination of the application for a permit, it is found to be allowable, a conditional permit may be granted and reasonable time shall be allowed to the holder of permit to comply with the conditions:
Provided that if the permit is not granted the activity shall be stopped immediately after the denial of the permit.
3. Permits shall be granted by the appropriate authority after obtaining the prior informed consent of the concerned gram or ward sabha.
4. The appropriate authority shall grant or refuse to grant a permit on the basis of a social and environment impact assessment conducted as per the stipulations of Section 43 of this Act:
Provided that no applicant shall be refused of a permit unless she or he has been given an opportunity to be heard.
5. The appropriate authority shall be helped by information and monitoring cells and supporting institutions and can seek the advice of the State Groundwater Advisory Council.
6. Every application for a permit shall contain such particulars and in such manner accompanied by such fee as may be prescribed.
7. The applicant for a permit shall disclose all relevant information to the appropriate authority regarding the use of and implications on groundwater of the planned activity. Such information shall be provided in good faith.

8. The appropriate authority may seek additional information from the applicant if information submitted under sub-section (6) is found to be insufficient to facilitate the decision making process:

Provided that the applicant shall provide such additional information within a month;

Provided further that where the applicant fails or refuses to provide the requested information, the application shall be deemed to be incomplete and liable to be rejected.

9. The decision regarding the grant or refusal of permit shall be intimated by the appropriate authority to the applicant within a reasonable time period and in any case not later than six months from the date of receipt of the application.

Terms and Conditions of the Permits

- a) The permit may be granted with terms and conditions as prescribed by the appropriate authority, taking into account the different groundwater requirements of different industries and the specific processes used and such terms and conditions may include but are not restricted to:
 - a) The maximum quantity of water that may be extracted;
 - b) Precautions to prevent contamination of groundwater by mandating existing pollution control standards and measures;
 - c) Details of conservation measures, including rainwater harvesting, to be taken;
 - d) Groundwater recharging measures;
 - e) Recycling a prescribed proportion of the extracted groundwater;
 - f) Treating wastewater to bring it to prescribed standards before it is discharged; and
 - g) Adopting and practising the most water efficient practices and technology.
- b) The permit shall be in accordance with the groundwater security plan in force in the area and with water use prioritisation outlined at Section 10 of this Act.
- c) The permit granted for a specified purpose shall not be used for any purpose other than that for which it has been granted.
- d) The permit holder shall be prohibited from selling, by whatever name or form, groundwater extracted under the permit to someone else for commercial use and/or gain.

Cancellation, Transfer and Validity of Permits

1. Non-compliance with the terms and conditions of the permit constitutes a ground for cancelling the permit and compliance shall be monitored by the authority that granted the permit, including the District Groundwater Council and State Groundwater Advisory Council:

Provided that the authority having granted the permit shall give the permit holder an opportunity to be heard before cancelling any permit.
2. Permits issued under this section shall be inalienable. However, permits granted to a natural person shall be inherited by his or her legal heirs and shall continue to be valid for the remaining period as

long as the legal heirs continue the activities done by the deceased permit holder. Further, on transfer of the property for the benefit for which the permit was granted, the permit shall continue to be valid so long as the nature of the activity continues unaltered by the new owner.

3. The permit shall be valid for a period fixed under the permit. The period of validity for the permit shall in no case exceed five years. However as far as possible the period fixed for the validity of permit shall be for a minimum period of one year. The appropriate authority may suspend the permit for a limited period in situations of emergency and/or request the permit holder to provide basic water from their own sources to nearby habitations in such cases of emergency.
4. Once the validity of the permit has expired, continuation of the permit shall require a fresh application by the permit holder complying with all the conditions of an original application.

Pricing of Industrial Use of Groundwater

1. Industrial or bulk groundwater use shall be priced and a water rate, as prescribed by the appropriate authority shall be charged.
2. Funds collected under this section shall be used for groundwater conservation and augmentation activities.
3. The groundwater rate charged under sub-section (1) is in addition to the water cess that may be paid under the Water (Prevention and Control of Pollution) Cess Act, 1977.

Mining

- a) Any person planning reconnaissance, prospecting, general exploration, detailed exploration or mining in respect of any major or minor minerals, including sand mining, shall prepare and file a prospecting plan with the appropriate authority of the area concerned, indicating steps proposed to be taken for the protection of surface and groundwater to minimise the adverse effect of prospecting operations on groundwater and the environment in general.
- b) Any person preparing and filing a prospecting plan under sub-section (1) and any person having undertaken mining operations for a major or minor mineral shall take immediate measures, as prescribed by the appropriate authority of the area concerned, to restore, as far as possible, water regimes and the ecosystem in general in the areas in which prospecting or mining operations have been conducted.
- c) Any person undertaking mining activities shall support groundwater enrichment activities in their watershed and provide drinking water from their own sources to nearby habitations in case of emergency in the manner prescribed by the appropriate authority.

Chapter 10 – Social and Environment Impact Assessment, Transparency and Accountability

Social and Environmental Impact Assessment and Public Consultation

1. It shall be duty of the appropriate authority to conduct social and environment impact assessments:

Provided that in order to carry out this obligation, the appropriate authority shall enlist the help of information and monitoring cells and supporting institutions, as well as any other agencies which the appropriate authority may think fit, as and when required;

Provided further that in no case the promoter of the project, which is subjected to the social and environment impact assessments, shall be involved in this process.

2. The social and environment impact assessment shall include, but not restricted to, assessment of short-term and cumulative:
 1. Impacts on quality and quantity of groundwater in the concerned area and beyond;
 2. Impacts on agricultural production and its socio-economic impacts;
 3. Impacts on drinking water sources, including public drinking water supply systems in the concerned area and beyond, and its socio-economic impacts;
 4. Impacts on livestock and other living beings; and
 5. Impacts on the ecosystem.

3. There shall be a public hearing on the project, convened by the appropriate authority, in the area where the project is proposed to be implemented:

Provided that the appropriate authority shall provide 60 days pre-hearing notice regarding the conduct of public hearing;

Provided further that the above said notice shall be given through gram or block panchayat offices and/or ward or municipal offices and publication of such notice shall also be made in at least two local language newspapers having circulation in the concerned area.

4. The date of the public hearing under sub-section (3) shall be fixed more than 60 days after the date of publication of the social and environment impact assessment report by the appropriate authority.
5. The social and environment impact assessment report shall be subjected to examination by an expert group constituted for this purpose and the appropriate authority shall ensure the conduct of such examination:

Provided that the expert group constituted under this sub-section shall consist of two non-official scientists, an independent expert on groundwater and an independent environmental expert.

6. The expert group shall give their recommendation to the appropriate authority within 30 days after receiving the copy of the social and environment impact assessment report and report of the public hearing.
7. The requirements of this section are in addition to any other requirements, which may be stipulated by any other law in force.

Duty to Establish Transparency Systems

1. It shall be the duty of the appropriate authority at all levels to create an effective, appropriate and citizen-friendly transparency regime for the present Act.

2. Access to information as defined in this Act shall extend to all persons.
3. The minimum content, periodicity, and other details of the information to be put out proactively shall be specified by Rules.
4. The transparency regime for provision of information to any person shall include, but shall not be restricted to:
 - a) Proactive mandatory disclosure;
 - b) Inspection of all documents and offices;
 - c) Making accessible the copies of documents, records and samples of material; and
 - d) Ensuring the transparency of the decision-making processes.
5. All requests for information within a district shall be fulfilled within seven days and those outside the district within 15 days:

Provided that any request for information not complied with within the time period specified shall be considered a deemed refusal.

Duties of Proactive Disclosure

1. Appropriate authorities at all levels shall proactively disclose information.
2. It shall be the duty of the appropriate authority to disseminate the records in such a manner that a layperson can understand the information easily. This obligation shall also include the dissemination of information in a consolidated and summarized form, wherever appropriate.
3. Proactive disclosure shall include, but is not be restricted to:
 1. Reading aloud essential information as per prescribed format and manner specified by the Rules;
 2. Hanging or putting up information on notice boards at the gram panchayat, block, and district levels and the establishment of painted wall boards at prescribed locations and in the prescribed format and manner specified by the Rules;
 3. Publishing of information through newspaper advertisements, press releases, or the printing of leaflets and reports and by making announcements through the audio-visual media, such as, community radio, radio and television; and
 4. Availability of key records on the Internet. There shall be free and open access to the websites related to this Act where, as much of the information as prescribed, including summaries and consolidated information, shall be uploaded regularly.

Social Audits

- a) Social audits of activities undertaken in pursuance with this Act shall be conducted in every twelve months. It shall be the obligation of the gram sabha or ward sabha, as the case may be, to conduct social audits, as required above, of activities undertaken in pursuance of this Act within the gram panchayat or municipal ward:

Provided that this mandatory social audit may be linked to social audits required under other laws or government schemes and guidelines.

- b) The relevant authorities shall make available all relevant documents including the tender documents, bills, vouchers, copies of sanction orders and other connected papers to the Gram Sabha or Ward Sabha for the purpose of conducting the social audit.
- c) The findings of the audit shall be read out in the gram or ward sabha and shall also be circulated to the State Groundwater Advisory Council and, as appropriate, to the District Groundwater Council or Municipal Groundwater Committee.
- d) The appropriate authority shall encourage independent audits, carried out by civil society or citizens groups.
- e) All social audits shall be universal and open, allowing for ongoing social audit (concurrent) as well as post facto social audits.
- f) The Groundwater Grievance Redressal Officer shall take necessary action on the findings of all social audits, including directions to initiate criminal prosecution.
- g) The Groundwater Grievance Redressal Officer may impose a fine and/or award compensation on the basis of the findings of the social audit, within a reasonable time period and in any case not later than six months.

Chapter 11 – Offences, Penalties and Liability

Offences and Penalties

1. Whoever does any activity, which prejudicially affects the quality of groundwater or availability thereof shall be punished with imprisonment, which may extend to one year and six months or with a fine, which may extend to one lakh rupees or with both.
2. If a user convicted under sub-section (1) repeats the offence, such user shall be punished with a fine for an amount double the maximum prescribed under sub-section (1) in addition to imprisonment that may be prescribed under sub-section (1). If such user holds a valid permit granted under this Act, such permit shall be cancelled with immediate effect.
3. Any supplier of water who supplies or causes to be supplied groundwater which fails to meet the quality standard prescribed under law shall be punished with a fine which may extend to five thousand rupees.
4. Whoever extracts or causes to be extracted groundwater from a groundwater protection zone and fails to comply with instructions or directions given by the appropriate authority under this Act or specified by the Rules shall be punished with imprisonment which shall not be less than six months and which may extend to three years and with a fine which may extend to ten lakhs.
5. Whoever, being an owner of a building liable to be fitted with mechanisms for harvesting rainwater for recharging groundwater as per the requirements under this Act, fails to do so, shall be punished with a fine, which may extend to five thousand rupees. In addition to the penalty imposed on her or

him, she or he shall be required by the Groundwater Grievance Redressal Officer to comply with the requirements of law within a stipulated time. In case of failure on the part of the owner of the building, the appropriate authority shall take steps to install or restore such mechanisms and the expenditure incurred for this shall be collected from the owner as arrears of land revenue or as a judgment debt realisable through execution proceedings initiated before the Groundwater Grievance Redressal Officer.

6. Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act or its Rules, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment, which may extend to three months or with fine, which may extend to ten thousand rupees or with both.
7. If an offence punishable under this Act is committed at any time by a company, every person who is in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence and the company shall be deemed to be responsible for the offence and shall be personally liable under the Act. This also includes criminal liability:

Provided that where any offence under this Act has been committed by a company and it is proved that the commission of the offence is with the consent and connivance or attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be responsible for that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section:

1. 'Company' means any body corporate and includes a firm or other association of individuals; and
2. 'Director' in relation to a firm means the partner in the firm.

Civil and Administrative Remedies

- a) Whoever violates the Groundwater Security Plan prepared and implemented under this Act shall be liable to be sued. Any act done or any omission to do an act in violation of the Groundwater Security Plan shall be an actionable wrong.
- b) The appropriate authority at the level in which the Groundwater Security Plan is drawn up and monitored shall be the body responsible for initiating and continuing the legal action against the violators.
- c) The appropriate authority shall designate an officer who shall initiate the legal proceedings against the violators of the Groundwater Security Plan.
- d) An application to remedy/rectify the violation shall be preferred before the Groundwater Grievance Redressal Officer having jurisdiction over the area from where the dispute arose.
- e) The appropriate authority may give directions to any person to remedy any violation of rules and regulations or provisions of this Act. It may also impose fines for the violations, remittance of which shall be a condition for restoration of the permit cancelled or suspended.

- f) Nothing under this provision shall bar the exercise of the power of cancellation, suspension, and modification of the permit granted by the appropriate authority by way of an administrative order for violation of the conditions of the permit.
- g) Any person aggrieved by the administrative directions issued against her or him by the appropriate authority may raise a dispute under this Act.
- h) Any individual, group, community, or non-governmental organization, can file a petition before the Groundwater Grievance Redressal Officer seeking remedy against the violation of the Groundwater Security Plan.
- i) No action shall be initiated by any person, other than the designated officer, under this section unless he had served thirty days notice to the concerned authorities for initiation of legal action:

Provided that the Groundwater Grievance Redressal Officer may allow the initiation of legal action without serving the above said notice if she or he is satisfied regarding the urgency of the matter or if she or he is convinced that no purpose is going to be served by issuing such a notice.

- j) The Groundwater Grievance Redressal Officer can issue an injunction against the perpetrator of the violation, or issue a mandatory injunction to compel positive actions to remedy the situation or direct the violator to pay compensation for the violation.
- k) Industrial or commercial users shall be strictly liable for substantial harm to groundwater quantitatively and qualitatively and for the degradation of the land as well as damage caused to public health.

Explanation: Inherently hazardous uses of groundwater include but are not limited to the direct pumping and/or release of potential hazardous effluents into aquifers, extraction of groundwater beyond the specified permit accorded to an industry, and activities destroying the recharge capabilities of areas notified as Groundwater Protection Zone 1.

- l) The Groundwater Grievance Redressal Officer may provide for restitution of property damaged and for restitution of the environment for such area or areas or compensation to victims who suffered health hazards or faces threat to health as well as for the damages caused to the environment as she or he may think fit.
- m) The Groundwater Grievance Redressal Officer may impose a fine for violations of the Groundwater Security Plan or any other provisions of this Act and such fine shall not exceed the amount prescribed as fine under the penal provisions under this Act.
- n) The Groundwater Grievance Redressal Officer may cancel the permit granted in cases of violation of the Groundwater Security Plan or conditions of the permit or suspend it for a specific period in addition to any other order she or he may pass in a petition for rectification of the Groundwater Security Plan violation.
- o) The Decision of the Groundwater Grievance Redressal Officer shall be binding on all parties to the complaint.
- p) No Action shall be initiated before the Groundwater Grievance Redressal Officer unless it is certified that all appropriate measures to settle the dispute by mediation and conciliation have failed. The

manner in which the certificate of failure of mediation and conciliation is to be issued and authenticated shall be provided by Rules.

- q) Nothing contained in this provision shall limit the power of the Groundwater Grievance Redressal Officer to entertain any complaint or application without prior notice being given to the appropriate authority for taking action or without the failure report of the conciliation and mediation if she or he is satisfied that the case requires urgent actions to be taken or that it will not serve any purpose to wait for the completion of the prerequisites mentioned earlier.

Cognizance of Offences

1. Offences under this Act shall be cognizable and triable by a magistrate of first class or by any other judicial forum created/empowered in this behalf.
2. The magistrate may take cognizance of the offence either suo moto or on a complaint filed by the appropriate authority.
3. Any person interested in the matter on her or his personal behalf can initiate prosecution of any person who commits any offence under this Act. Before initiating the prosecution, the person interested shall give one month notice to the appropriate authority intimating her or his intention to initiate prosecution:

Provided that it shall be within the power of the court to allow the person interested in the matter to initiate prosecution against anyone who violated the provisions of this Act without serving the notice mentioned above if the court is satisfied that the matter is of urgent nature or that no useful purpose is going to be served by issuing the above-mentioned notice.

Compounding of Offences

1. Offences prescribed under this chapter, except under Section 47 sub-section (4) may be compounded by the appropriate authority with the permission of the court.
2. On compounding the offences, the conditions laid down under rules for the imposition of fees for compounding shall be complied with.

Chapter 12 – Dispute Resolution

Dispute Resolution Avoidance, Mediation and Conciliation

- a) Every dispute under this Act shall be referred to be settled by mediation or conciliation at the appropriate level, by mediators and conciliators.
- b) Every Panchayat Groundwater Committee or Ward Groundwater Committee shall make available by consensus a list of persons of repute and integrity to act as conciliators and mediators, to be published by the District Panchayat. In order to facilitate the process of mediation and conciliation the state shall publish a list of persons available for acting as mediators and conciliators in every local area.
- c) The settlement reached under this process shall be final and binding and shall be authenticated by the process prescribed under Rules.

- d) Any dispute, which fails to be resolved under the mediation and conciliation shall be referred to the court for adjudication with a statement of failure report.
- e) In case of any grievance of no reference of dispute for adjudication on failure of mediation and conciliation, the aggrieved party may approach the court for permission to file suit for adjudication of the dispute.

Appointment of a Groundwater Grievance Redressal Officer

1. The State Government shall appoint in every block a Block Groundwater Grievance Redressal Officer and in every municipality a Municipal Groundwater Grievance Redressal Officer. The manner of selection, appointment and conditions of service shall be fixed by Rules formulated by the State Government in this behalf.
2. No one shall be appointed as Groundwater Grievance Redressal Officer unless she or he has experience and qualification in the field of law or hydrogeology or science and technology or social service or management or water policy or human rights or public administration.
3. Every Groundwater Grievance Redressal Officer shall hold office for a term of five years. The Groundwater Grievance Redressal Officer shall be eligible for re-selection for a second term, and shall not be eligible for any further terms.

Disqualification for appointment as Groundwater Grievance Redressal Officer

1. The Groundwater Grievance Redressal Officer shall not be eligible for appointment if she or he:
 - a) Is a public servant or a non-official holding any office of profit under the government at the time of appointment;
 - b) Has been convicted and sentenced to imprisonment for an offence involving moral turpitude or corruption under the Prevention of Corruption Act, 1988;
 - c) Has been suspended, removed or dismissed from the service of the government or a body corporate owned or controlled by the government; or
 - d) Has, in the opinion of the appropriate authority, such financial or other interest as is likely to affect prejudicially the discharge of his or her functions as a Groundwater Grievance Redressal Officer.
2. The Groundwater Grievance Redressal Officer shall not hold any post under the government or any office of profit receiving remuneration from the state exchequer during the period in which she or he holds the post.

Nyaya Mitra

1. In every district, there shall be a Nyaya Mitra to assist the Groundwater Grievance Redressal Officer in the discharge of her or his duties.
2. No one shall be appointed as a Nyaya Mitra unless she or he holds a bachelors degree in law, with eligibility to enrol as a lawyer, from a recognised institution or university.

3. The manner of selection, terms of appointment and remuneration of the Nyaya Mitra shall be as prescribed by Rules.

Jurisdiction and Procedure

- a) The Groundwater Grievance Redressal Officer shall have jurisdiction over all complaints arising under this Act, within the territorial jurisdiction for which she or he is appointed.
- b) For the purposes of this section, the Groundwater Grievance Redressal Officer shall have the same powers and obligations as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:
 - a. The summoning and enforcing attendance of any defendant or witness and examining the witness on oath;
 - b. The discovery and production of any document or other material object as evidence;
 - c. The reception of evidence on affidavits;
 - d. The requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - e. Issuing of any commission for the examination of any witness; and
 - f. Any other matter, which may be prescribed.
- c) The Groundwater Grievance Redressal Officer shall pronounce his or her decision in public immediately after finishing the hearing or at any subsequent time, not exceeding fourteen days.
- d) The Decision of the Groundwater Grievance Redressal Officer shall be binding on all parties to the complaint.
- e) Copies of the decision shall be given to the parties immediately free of cost and a copy shall be sent to the concerned Gram Panchayat Groundwater Committee or Ward Groundwater Committee.

Appeals

- a) Appeals from the decisions of the Block Groundwater Grievance Redressal Officer can be preferred to the Gram Nyayalaya set up under Section 3 of the Gram Nyayalayas Act, 2008.
- b) Appeals from the decisions of the Municipal Groundwater Grievance Redressal Officer shall lie before the sub-court.

Chapter 13 – Miscellaneous

Pre-existing Rights

1. Pre-existing rights will continue to be valid for a period of one year from the date of commencement of this Act.

2. No compensation is due for any legal or other rights that become extinguished as a result of this legislation.

Drilling Agencies

1. Drilling agencies must be registered with the District Groundwater Council.
2. Drilling agencies must provide the appropriate authority with full details of the drilling activities planned and undertaken.
3. Drilling agencies must have a hydrogeologist possessing the prescribed qualifications on their payroll.

Funds Collected under this Act

1. Any fees, cess, penalties or grants received from the government or money received from any other source by way of gift or otherwise shall be set apart in a separate account and shall be used to further the objectives of this Act.

Protection of Action Taken in Good Faith

- a) No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

Effect of this Act on Other Laws

- a) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have precedence and overriding effect.

Power of the State Government to Make Rules

1. The State Government may, by notification, make rules to carry out the provisions of this Act.
2. Every Rule made under this Act shall be laid before the state legislature during its next session.

Power of Local Authorities to Make Byelaws

- a) Consistent with the Rules made by the State Government under this Act, local authorities may, by notification, make byelaws to carry out the provisions of this Act.
- b) Every byelaw made by local authorities under this Act shall to be sent for approval and endorsement by the State Legislature. The byelaws will take effect after such endorsement is made by the State Legislature.

Power to Make Regulations

1. Subject to the provisions of this Act and its Rules, the State Government may make regulations to carry out the purposes of this Act.

Power to Remove Difficulties

1. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

2. Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

1. Groundwater is the backbone of India's agriculture and drinking water security in urban and rural areas. It is also important for the industrial sector in a large measure and, if left unregulated, may lead to serious inter-sectoral conflicts. A serious groundwater crisis prevails currently in India due to excessive overdraft and groundwater contamination covering nearly 60 percent of all districts in India and posing a risk to drinking water security of the population, as more than 80 percent of India's drinking water needs are serviced by groundwater resources. In addition to overdraft and biological and chemical contamination, excess groundwater and waterlogging is also a serious problem in many regions, impacting livelihood security of large sections of society.
2. The acute problems relating to groundwater warrant a change in perspective and approach in its use and management. It is necessary to acknowledge the hydrogeological characteristics of groundwater and its integral link to land, vegetation and surface water resources, and perceive it as a 'resource' rather than a 'source'.
3. In acknowledgement of the ubiquity of groundwater and its importance to all sections of society, it is necessary to recognize it as a common pool resource and adopt an aquifer-based approach to its management.
4. The existing legal framework derived from common law principles and judicial interpretation that recognizes private property rights in water is inappropriate for the emerging status, conflicts and dynamics of groundwater.
5. In recent decisions, superior courts in India have affirmed the common property nature of groundwater and have recognized the need to govern this resource under the concept of 'public trust'. Further, existing groundwater law principles and legislation fail to incorporate the many legal principles that have emerged in the rapid development of environmental law.
6. It is imperative to recognise groundwater as a natural resource vital to life, livelihood and environment, and to change the existing legal status of groundwater. Respect for established fundamental rights and application of accepted norms and principles of environmental law is another key change needed to respond to the contemporary challenges. Most importantly, regulation and improvement of groundwater is inevitable to ensure safe and adequate drinking water for everyone and thereby for the realisation of the right to water. Given the highly decentralised way in which groundwater is being used, the regulatory and institutional framework need to apply the principle of decentralisation and participation effectively by replacing the existing centralised licensing mechanism.
7. The Government of India has earlier attempted to recommend a statutory framework to regulate groundwater. The latest version of the existing model bill is the Model Bill to Regulate and Control the Development and Management of Groundwater, 2005. This model bill has failed to take notice of recent legal developments, such as the 73rd and 74th amendments to the Constitution of India vesting powers to Panchayats and Municipalities in the management of water that includes groundwater. In addition, it has not been widely adopted by states and even where it has, it has not been effectively implemented.

8. A new legal framework with norms, principles, procedures and institutions suitable to address contemporary and imminent challenges is therefore required.
9. The overall objectives of the Model Bill are thus to ensure the qualitative and quantitative sustainability of groundwater resources, equity in groundwater use, not just within users but across uses as well and efficiency in the use of groundwater as a common pool resource, through an appropriate institutional structure and participatory processes.
10. To achieve the above objectives, therefore, the Model Bill for the Conservation, Protection and Regulation of Groundwater, 2011 is hereby enacted.

File No: 25(1)/A/3/2010-WR
Government of India
Planning Commission
(Water Resources Division)

436, Youjana Bhavan,
Sansad Marg, New Delhi – 110001
Dated: 08.04.2011

ORDER

Subject: Sub-group on Legal Issues related to groundwater management and regulation, including the strengthening of the groundwater regulatory authorities at the Centre and States.

Ref: Planning Commission Orders of even no. dated: 15.10.2010, 16.12.2010, 13.01.2011, 10.02.2011 and 29.03.2011 on Working Group of Water Governance

It has been decided by the approval of the competent authority to set up a Sub Group (under the Working Group on Water Governance for the formulation of 12th Five Year Plan) on "Legal Issues related to groundwater management and regulation, including the strengthening of the groundwater regulatory authorities at the Centre and States" under the convener ship of Shri Philippe with the following composition:

| | | |
|---|---------------------------------|--|
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| 4 | Himanshu Kulkarni, ACWADAM | Advanced Center for Water Resources Development and Management (ACWADAM), Plot 4 Lenyadri society, Sus road, Pashan, Pune-411021 020-25871539 acwadam@gmail.com |
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| 8 | NS Soman, CUSAT | School of Legal Studies, Cochin University of Science and Technology, Cochin-22. Kerala. 94464 58084 nss_sls@yahoo.co.in |
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| 10 | MS Vani, Development Centre for Alternative Policies | Development Centre for Alternative Policies, 5, Babar Road, Second Floor, New Delhi, Delhi - 110 001 2335 3774 msvani@gmail.com |
| 11 | Shri Suresh Sodal | Shri Suresh Sodal, Maharashtra Water Resources Regulatory Authority 9th Floor, Centre - 1, World Trade Centre, Cuffe Parade, Mumbai - 400 005. Tel No. 022 - 2215 2019 Fax No. 022 - 2215 3765 |
| 12 | Shri Sushil Gupta Member (Survey Assessment and Monitoring), CENTRAL GROUND WATER BOARD, NH-IV, Bhujal Bhawan, Faridabad - 121001 | Shri Sushil Gupta Member (Survey Assessment and Monitoring), CENTRAL GROUND WATER BOARD, NH-IV, Bhujal Bhawan, Faridabad - 121001 Ph: 0129 - 2412130 Fax: 0129 - 2425870 Email: msam-cgwb@nic.in |

2. The terms of Reference of the Sub Group on “**Legal Issues related to groundwater management and regulation, including the strengthening of the groundwater regulatory authorities at the Centre and States**” will be

- Review national and international experience in developing groundwater legal regimes;
- Review principles necessary for drafting a socially equitable and environmentally sustainable legal framework for the conservation and use of groundwater;
- Consider the extent to which principles proposed would differ, if at all, from principles for surface water legislation;
- Consider ways in which groundwater legislation can effectively implement the priority given to drinking/domestic water;
- Consider ways in which new principles governing access to groundwater can be best implemented, taking into account the long historical development of existing rights;
- Review ways in which groundwater legislation can contribute to the implementation of constitutional principles related to decentralisation;
- Review ways in which groundwater legislation could be conceived in a broader manner that is, for instance, intrinsically linked to environmental legislation and consider ways in which an ecosystem approach can be implemented for groundwater regulation;
- Review national and international experience in developing institutional frameworks governing groundwater that ensure equitable and sustainable conservation and use of groundwater;
- Consider whether new institutional structures are needed, whether existing institutions need to be kept, modified, given different mandates to ensure socially equitable and environmentally sustainable conservation and use of groundwater.
- Review existing groundwater legislation and prepare a draft groundwater bill taking into account all the above considerations and reflecting the contemporary groundwater situation across the country

3. The expenditure on TA/DA of Non Official Members of the Sub Group will be borne by the Planning Commission. In case of Official Members, the same would be borne by their respective organization.


4. **The Sub Group will submit its report to Planning Commission by 15th June, 2011.**



(Avinash Mishra)
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To

1. Convener and all Members of the Working Group (As per list attached)
2. PS to Deputy Chairman, Planning Commission
3. PS to all Members/Minister of State, Planning Commission
4. PPS to Member-Secretary, Planning Commission
5. Consultant (Water Resources), Planning Commission
6. Adviser (Administration), Planning Commission.
7. Adviser (Agri), Planning Commission
8. Adviser (Plan Coordination and Management Division) Planning Commission



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