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Madhya Pradesh Peya Jal Parirakshan Adhiniyam, 1986

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MADHYA PRADESH ACT

No.3 OF 1987

THE MADHYA PRADESH PEYA JAL PARIRAKSHAN ADHINIYAM,1986.

[Received the assent of the Governor on the 9th January 1987; assent first published in the "Madhya Pradesh Gazette" (Extra-ordinary), dated the 13th January,1987].

An Act to provide for preservation of water in the water sources and for regulation of digging of tube wells in order to maintain the water supply to the public for domestic purposes and for matters ancillary thereto.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Madhya Pradesh Peya Jal Parirakshan Adhiniyam 1986. Short title and commencement.
(2) It shall come into force on such date as the State Government may be notification, Definitions
appoint.
2. In this Act, unless the context otherwise requires:-
 - (a) "domestic purposes" in relation to use of water means consumption of the same by human beings for drinking, bathing, washing, cleansing and other day to day activities and includes use thereof for similar purposes for the upkeep of domestic animals;
 - (b) "Tubewell" means a bore hole within the prescribed limits of verticality, drilled up to suitable depth, in alluvium or rocky areas installed with requisite type of housing pipe, placing of sand or gravel as per necessity, for the purpose of drawing underground water with the help of mechanical means, other than Manual Operation.
 - (c) "water scarcity area" means the area declared as water scarcity area under section 3;
 - (d) "water source" means river, dam, canal, stream, fountain, lake spring, tank, anicuts of well from which the State Government or local authority supply water to the public under its water supply scheme for domestic purposes and shall include such other water sources as may be notified by the State Government in this behalf, from time to time, but it shall not include the canal as defined in Section 3 of the Madhya Pradesh Irrigation Act, 1931 (No.3 of 1931).
3. If the Collector is of opinion that it is necessary or expedient so to to-Declaration of water scarcity area .
 - (a) for maintaining or increasing supply of water to the public; or
 - (b) for securing its equitable distribution; or
 - (c) for securing water to meet the need of the public,

Domestic purposes, he may, by order, declare such area of the district for such period as may be specified in such order to be water scarcity area and thereupon the provisions of this Act should apply to such area during the operation of the said order.
4. (1) Notwithstanding anything contained in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) and any other law, for the time being in force, enacted under any of the entries enumerated in the State List of the Seventh Schedule to the Constitution of India, no person shall take water by any means from any water source in the water scarcity area for irrigation or industrial or any other purposes except domestic purpose without the permission of the Collector concerned. Prohibitions to take water for irrigation or industrial or any other purpose from water source in water scarcity area without permission.
(2) An application for permission under sub-section (1) shall be made to the Collector concerned in such form and accompanied by such fee as may be prescribed.
(3) The Collector may, for reasons to be recorded in writing, refuse to grant permission in the public interest if in his opinion it is necessary to preserve water in order to ensure supply thereof to the public from such water source for domestic purposes.

(4) Every permission under this section shall be subject to –

- (a) The condition that the Collector may, for reasons to be recorded in writing, by order prohibit the taking of water from the source for such period as may be specified in such order if in his opinion it is necessary in the public interest to prohibit taking of water from such water source during the period specified to preserve water in order to ensure the supply thereof from such water sources to the public for domestic purposes; and**
- (b) Such other conditions and restrictions as may be prescribed.**

(5) No person shall be entitled to claim damages from the state Government for the loss sustained by him as a result of order passed under clause (a) of sub-section (4), but however no charges for the taking of water shall be required to be paid by such person for the period during which order under clause (a) of sub-section (4) remains in operation notwithstanding anything contained in any agreement, usage or custom or any other law for the time being in force, enacted under any of the entries enumerated in the State List of the Seventh Schedule to the Constitution of India.

Overriding effect of the order

5. An order under Section 3 shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force enacted under any of the entries enumerated in the State List of the Seventh Schedule to the Constitution of India

Prohibition of digging of tube wells without permission

6. (1) No person shall dig tube-well in the water scarcity area for any purpose without the permission of the Collector or any other officer authorised by the State Government in this behalf.

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

(3) No permission under sub-section (1) shall be prescribed granted within the Zone of interference unless the digging of tube-well for which permission is sought is not likely to affect in any way the water supply from the tube well existing in such zone which has been constructed or is maintained by the State Government or a local authority, as the case may be, for the purposes of water supply to the public for domestic purposes.

(4) Every permission under this section shall be subject to such conditions and restrictions as may be prescribed.

Explanation – For the purpose of this section "zone of interference" means an area with the radius of one hundred fifty metres from the existing tube-well referred to in sub-section (3)

Appeal.

7. Any person aggrieved by an order passed by the Collector under Section 4 may prefer an appeal to the Commissioner of the Division within thirty days in such manner as may be prescribed from the date of such order setting forth concisely the grounds of objection to the order appealed against.

Review

8. Subject to the provisions of this Act, the Collector may either on his own motion or on the application of the aggrieved party, if no appeal has been preferred, may review the order passed by himself or by any of his predecessors in office and pass such order as he thinks fit.

Provided that-

(i) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;

(ii) no order from which an appeal has been made shall so long as such appeal is pending be reviewed.

Offences.

9. The contravention of the provisions of section 3 or section 4 shall be punishable with imprisonment which may extend to two years or a fine which may extend to two thousand rupees or with both.

Power to make rules

10 (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely;-

- (a) the form of application and a fee therefor under sub-section (2) of Section 4;**
- (b) the conditions and restrictions subject to which permission is to be granted under sub-section (4) of Section 4;**
- (c) the form of application and fee therefore, under sub-section (2) of Section 6; and**
- (d) the conditions and restrictions subject to which permission under sub-section (4) of Section 6 is to be granted.**

(3) The rules made under this Act shall be laid on the table of the Legislative Assembly.

**THE MADHYA PRADESH PEYA JAL PARIRAKSHAN (SANSHODHAN)
VIDHEYAK, 2002**

A Bill further to amend the Madhya Pradesh Peya Jal Parirakshan Adhiniyam, 1986.

Be it enacted by the Madhya Pradesh Legislature in the Fifty third Year of the Republic of India as follows:-

Short title 1. This Act may be called the Madhya Pradesh Peya Jal Parirakshan (Sanshodhan) Adhiniyam, 2002.

Insertion of new Sections 4-A and 4-B 2. After Section 4 of the Madhya Pradesh Peya Jal Parirakshan Adhiniyam, 1986 (No.3 of 1987) (hereinafter referred to as the Principal Act), the following sections shall be inserted, namely:-

Requisitioning of Water Source temporarily. "4-A. (1) Notwithstanding anything contained in any other law for the time being in force, if in the opinion of the Collector it is necessary or expedient so to do for securing water to maintain or to increase supply of water to the public for domestic purposes, he may by order in writing requisition temporarily any water source situated in the water scarcity area declared as such under Section 3 for such period, as may be specified in the order which shall not exceed four months and may make such further orders as may be necessary or expedient in connection with the requisitioning. Such order shall be addressed and served to the owner or the person in possession of the Water source as the case may be, in such manner as he thinks fit.

Provided that adequate of water will continue to be supplied to the owner or to the person in possession of the water source for domestic purposes.

(2) Whenever any water source is requisitioned under sub-section (1), the period of such requisition may be extended for a further period not exceeding two months in the same circumstances.

Payment of rent and damages for requisition of water source. "4.B. (1) Consequent to an order passed under sub-section (1) of Section 4-A requisitioning the water source, the owner or person in possession of the said water source shall be entitled to payment of rent equal to two percent of the current market value of the development of water source and all related infrastructure for every month of requisitioning.

(2) All operation and maintenance expenses on machinery pertaining to water supply for the period of requisitioning under sub-section (1) of Section 4-A shall be borne by the authority requisitioning the water source.

Explanation – Operation and maintenance expenses will include the electricity charges and spares for repairs etc.

(3) The owner or the person in possession of the said water source shall be entitled to damages caused to the water source and the related infrastructure or the property during the period of requisition, other than normal wear and tear.

Amendment of Section 7 3. In section 7 of the Principal Act, for the word and figure ' section 4' the words and figures "Section 4, Section 4-A or Section 4-B" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Madhya Pradesh PeyaJal Parirakshan Adhiniyam, 1986 provides for the preservation of water in the existing water sources for domestic purposes but there is no specific provision for requisition of private water sources in the water scarcity area for maintaining or increasing water supply to the public. Hence it has been decided to requisition water source temporarily in the water scarcity area for water supply to the public.

2. It is, therefore, proposed to amend the aforesaid Act suitably for the purpose.

3. Hence this Bill.

**Bhopal
Dated the 2nd August, 2002**

**DEEPAK SAXENA
Member-in-charge**