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Andhra Pradesh Ground Water (Regulation for Drinking Water Purposes) Act, 1996

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THE ANDHRA PRADESH GROUND WATER (REGULATION FOR DRINKING WATER PURPOSES) ACT, 1996.

ACT No. 7 OF 1996.

[7th February, 1996]

AN ACT TO REGULATE THE EXPLOITATION OF GROUND WATER FOR THE PROTECTION OF PUBLIC DRINKING WATER SOURCES AND MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-seventh Year of the Republic of India, as follows:-

1. (1) This Act may be called the Andhra Pradesh Ground Water (Regulation for Drinking Water Purposes) Act, 1996.

Short title,
extent and
commence-
ment.

*Received the assent of the Governor on the 5th February, 1996. For Statement of objects and Reasons, Please see Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated the 4th May, 1995 at Page 15.

(2) It extends to the whole of the State of Andhra Pradesh.

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

Definitions 2. In this Act, unless the context otherwise requires,-

(1) "appropriate Authority" means the District Collector and includes any officer not below the rank of a Mandal Revenue Officer, as the State Government may by notification in the Official Gazette, appoint for the purposes of this Act and different officers may be appointed for different local areas of the State;

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

Explanation: For the purposes of this clause the expression "domestic purposes" shall include consumption or use of water for cooking, bathing, washing, cleaning and other day to day activities.

(3) 'Government' means the Government of Andhra Pradesh;

(4) 'ground water' means water existing in an aquifer below the surface of the ground at any particular location of

the local area regardless of the geological structure in which it is stationary or moving and includes all ground water reservoirs:-

(5) "notification" means, a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;

(6) "Over exploited watershed" means a watershed where the estimated annual ground water extraction is more than eighty five per cent of the estimated average annual ground water recharge, calculated in the prescribed manner, and declared as such under section 6;

(7) "prescribed" means prescribed by rules made under this Act;

(8) "public drinking water source" means a well, from which the Government or a local authority or such other authority as the Government may by notification specify, provides water to the public and includes such well or any other drinking water sources as may be notified by the Appropriate Authority;

(9) "public water supply system" means the structures relating to a public drinking water source, including conveying pipeline storage reservoir, stand post, cistern, hand pump, power pump and all other materials connected thereto through which water is supplied for drinking water purpose;

(10) "sink" with all its grammatical variations and cognate expressions in relation to a well includes any drilling,

boring, or digging of a new well or deepening carried out to an existing well;

(11) "technical officer" means a Geologist in the office of the State Ground Water Department not below the rank of an Assistant Hydro-geologist/Assistant Geo-physicist or equivalent;

(12) "water scarcity area" means an area declared as such by the Appropriate Authority under section 4;

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

(14) "well" means a well sunk for the search for an extraction of ground water and includes a dug well, bore well, dug-cum-bore well, tube well and filter point.

CHAPTER-II

PROTECTION MEASURES FOR PUBLIC DRINKING WATER SOURCES

Licences
to dig
wells etc.

3. (1) Notwithstanding anything contained in any law for the time being in force and having regard to the interests of the general public to have the supply of requisite quantity of water for drinking purposes from the public drinking water source, no person subject to sub-section (2) shall sink any well for any purpose in the vicinity of a public drinking water source within a distance of two hundred metres if it is a source

with Hand pump or Open well, and within a distance of two hundred and fifty metres if the source is used with a power Driven Pump.

Explanation:- For the purposes of this section and section 5, the word 'person' does not include Government or any other authority under statute.

(2) Any person, who intends to sink a well for purposes of irrigation or drinking or for any other purposes within a distance of two hundred metres or as the case may be five hundred metres of a public drinking water source shall apply for permission to the appropriate authority in such manner and on payment of such fee as may be prescribed.

(3) The appropriate authority on receipt of an application under sub-section (2) may, on the advice of the Technical Officer, for reasons to be recorded in writing, grant permission for the sinking of a well for irrigation or drinking water purpose, if he is satisfied that such sinking shall not adversely affect the public drinking water source or refuse to grant permission if such sinking affects such source adversely;

Provided that if the appropriate authority fails to inform the applicant of his decision within ninety days from the date of receipt of the application, the permission applied for, shall be deemed to have been granted but such permission shall always be subject to such conditions as may be prescribed.

(4) Every permission granted under sub-section (3) shall be subject to the condition that the appropriate authority

may for the reasons to be recorded in writing, by order, prohibit, restrict or regulate from time to time the extraction of water from such well if in his opinion it is necessary to do so in the public interest and also such other conditions and restrictions as may be prescribed.

Power to
declare
water
scarcity
area.

4. (1) If, at any time during the course of monsoon or thereafter, the appropriate authority on the advice of the Technical Officer having regard to the quantum and pattern of rainfall and any other relevant factor, is of the view that the public drinking water sources in any area of the district are likely to be affected adversely, he may, by order, declare such area to be water scarcity area for such period as may be specified in the order but not exceeding one year at a time. The Technical Officer shall also verify the rainfall data and shall observe regular water level fluctuations of the area.

(2) The appropriate authority may, during the water scarcity period as declared under sub-section (1), by order regulate the extraction of water from any well in such area by restricting or prohibiting such extraction for any purpose other than for drinking water purpose, where such well is within a distance of one kilometre of the public drinking water source:

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

(a) the area within one kilometre from the public drinking water source shall be divided into zones as may be advised by the Technical Officer and the

priorities referred to clauses (b) and (c) shall be taken into consideration for fixing the priorities;

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

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

(3) The order imposing such restriction or prohibition under sub-section 2) shall be served or caused to be served personally by delivering or tendering the same to the owner of the well at least fifteen days before the commencement of the orders of restriction or prohibition, as the case may be:

Provided that where the owner cannot be found, an authentic copy of the notice may be served on any adult member of the family. In the case of an Order affecting the corporation or a firm, it shall be served in the manner for the service of a summons in rule 2 of Order XXIX or rule 3 of Order XXX as the case may be in the First Schedule to the Code of Civil Procedure, 1908.

5 (1) The appropriate authority may, on the advice of the Technical Officer, declare a watershed as over-exploited watershed.

(2) Notwithstanding anything contained in any law for the time being in force and having regard to the prime need of

water for drinking water purposes, of the human beings and in the interests of the general public to have the supply of requisite quantity of water for drinking water purposes from the public drinking water source in the over exploited watershed, no person shall, without the permission of the appropriate authority, sink well within the area of an over exploited watershed.

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

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

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

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

Prohibition
of exploitation
of water.

6 (1) The appropriate authority may, on the advice of the Technical Officer, that any existing well in the area of over exploited watershed is found to be adversely affecting any public drinking water source, and notwithstanding anything contained in any law for the time being in force and also having regard to

the quantum and pattern of rainfall and any other relevant factor after giving the owner a reasonable opportunity of being heard by an order, prohibit the extraction of water from such well during the period as specified by the Collector based on the advice of the Technical Officer from the 1st February to 31st July in an year.

(2) Notwithstanding anything contained in any law for the time being in force and in other provisions of this Act, the appropriate authority, on the advice of the Technical Officer that any existing well in the area of an over exploited watershed is found to be adversely affecting any public drinking water source and if such source cannot be adequately protected by action under sub-section (1) may after giving the owner of such watershed a reasonable opportunity of being heard, by an order require him to stop the extraction of water from and close or seal off, such well forthwith either temporarily or permanently, having regard to the extent to which it is adversely affecting.

(3) Whenever it is necessary to make an inquiry or examination in connection with the protection of a public drinking water source or with the maintenance of a public water supply system, the appropriate authority or any officer duly authorised by him in this behalf may after giving prior notice to the owner or occupier of any land,--

(a) enter upon such land as he may think necessary for the said purpose;

(b) undertake surveys or take levels thereon;

(c) conduct pumping tests and geophysical surveys;

(d) conduct well logging on the well;

(e) install and maintain water levels recorder and water gauges on the well;

(f) do all such other things as may be necessary for the prosecution of such inquiry and examination.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the appropriate authority may, on the advice of the Technical Officer, in any Urban area issue an order;

(i) prohibiting extraction of water for sale from an over exploited water source/aquifer depleting the public or private water sources and affecting supply of water for domestic usage, or;

(ii) restricting the drawal of ground water within the premises of multi-storeyed buildings for domestic usage.

are, dis-
section etc.

7 (1) Wherever it appears to the appropriate authority that any well has been sunk or is being sunk in contravention of the provisions of this Act or water has been extracted or is being extracted in contravention of section 6, the appropriate authority or any officer duly authorised by him in this behalf may enter upon that land, remove obstruction, if any, close the pumping of the water, disconnect power supply, seize any

material or equipment used in connection with such extraction of water and take any such action, as may be required to stop such action, and may by order require the owner or the person in possession of the well to close or seal off the well at his expenses and in such manner as the appropriate authority may specify in such order and such owner or person shall comply with such order.

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

8. Where an order of permanently closing down or sealing off the well, which is giving substantial yield and which is really useful for irrigating any land or for an industrial use, is made under section 6, the Collector may on making such enquiry and requiring the owner to produce such evidence as he may deem necessary, make an order for payment of compensation which shall not be less than the market value of the well including other expenditure incurred like energisation thereon and structure thereon and the provisions of the Land Acquisition Act, 1894 with regard to the determination of compensation for the well situated in a land acquired, shall apply in determining the market value of the well under this section: Payment of compensation.

provided that, where an order under section 6 relates to temporarily closing down or sealing off a well, water from which is used for the irrigated crops standing at the time of making such an order, the compensation for such crops shall also be payable under this section:

Provided further that, where by virtue of an order made under section 6 any well which is permanently closed or sealed off is, for any reason whatsoever, allowed to be opened for extracting water therefrom any subsequent order made for permanently closing down or sealing off such well again shall not entitle the owner thereof to claim compensation for such well.

Bar to claim compensation. 9. Subject to the provisions of section 8, no person shall be entitled to claim any damages or compensation from the Government for any loss sustained by him as a result of any order passed under sub-section (3) of section 3 or under section 6 or section 7 or by virtue of any action taken under this Act.

CHAPTER-III

MISCELLANEOUS

Appeals. 10 (1) Any person aggrieved by any order made by the appropriate authority under any of the provisions of the Act may, within a period of thirty days from the date of receipt of the order by him, appeal to the Collector, if the order is made by any officer other than the Collector and the Commissioner of Land Revenue if the order is made by the

Collector. On receipt of such appeal, the appellate authority shall after giving a reasonable opportunity to the appellant of being heard and permitted to lead evidence pass such order as he may think fit. Every order made by the appellate authority in such appeal shall be final and shall not be called in question in any court.

Explanation: For the purpose of this sub-section the expression "person aggrieved" includes a local authority the Panchayat Raj Engineering Department/ State Ground Water Department and any other agency or authority entrusted with the responsibility of supplying drinking water.

(2) Before giving any decision in such appeal, the appellate authority shall obtain the opinion of the geologist of Panchayat Raj Department or Regional Officer of the State Ground water Department and shall take the same also into consideration.

(3) The Geologist or Regional Officer, State Ground Water Department shall forward his opinion to the appellate authority within two months from the date of receipt by him of a reference in that behalf.

(4) Save as otherwise provided in sub-section (1), every order made and every direction issued under this Act shall be final and shall not be called in question in any court.

11 (1) No suit, prosecution or other Protection of legal proceedings shall lie against any action taken in public servant or person appointed or good faith.

authorised under this Act in respect of any thing which is in good faith done or intended to be done under this Act or in pursuance of any order made or direction issued under this Act.

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

**Offences and
Punishments.**

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

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

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

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

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

14. The provisions of this Act shall ~~Overriding~~ have effect notwithstanding anything to effect. the contrary contained in any other law for the time being in force.

15. (1) The Government may, by notifi- Power to cation make rules for carrying out all make rules. or any of the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be, comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

G. BHAVANI PRASAD,
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Law Department.