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Goa Ground Water Regulation Act, 2002

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THE GOA GROUND WATER REGULATION ACT, 2002

AN ACT

to regulate and control the development of ground water resources and matters connected therewith.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second year of the Republic of India as follows:-

1. Short title, extent and commencement. – (1) This Act may be called the Goa Ground Water Regulation Act, 2002.

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

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

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

(a) “Act” means the Goa Ground Water Regulation Act, 2002;

(b) “Cell” means the ground water cell constituted under the Act;

(c) “Government” means the Government of Goa;

(d) “ground water” means the water under the surface of the earth regardless of the geological structure in which it is stationary or moving and includes all ground water reservoirs;

(e) “Ground Water Officer” means the Ground Water Officer authorized and / or appointed by the Government to perform the functions of the Ground Water Officer under this Act;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “sink” with all its grammatical variations and cognate expressions in relation to a well shall include any digging, drilling or boring of a well or deepening carried out to the existing wells;

(h) “source of water” means the water which exists in the nallahs, wells, rivulets, rivers, lakes, ponds, borewells, tubewells, canals, springs, etc;

(i) “user of ground water” means the person or persons or an institution including a company or an establishment, whether Government or not, who or which own or use or draw ground water for any purpose, including domestic, industrial, environmental, ecological and agriculture use, made either on a personal, institutional or community basis;

(j) “well” means sunk for the search or extraction of ground water by person or persons except by the authorized Officials of the State or Central Government’s, for carrying out scientific investigations, exploration, development or management work for the survey and assessment of ground water resources and includes open well, dug well, sunk well, bore well, tube well, tank, pond, dug-cum-borewell, filter point, collector well and infiltration gallery.

3. *Constitution of Ground Water Cell.*- (1) The Government shall constitute a ground water cell for carrying out the purposes of this Act.

(2) The Chief Engineer of the Department of Water Resources of the Government shall be the ex-officio Head of the cell besides other members who may be appointed by the Government.

(3) The Government, in consultation with the Cell, may designate, by notification, any person serving in connection with the affairs of the Government including any person serving in the Cell itself, as the Ground Water Officer for the purposes of this Act.

(4) The Ground Water Officer shall function under the direct control and superintendence of the Cell.

4. Declaration of Scheduled, Water Scarcity and over exploited areas.- (1) Having regard to the potential of availability of ground water and other relevant factors, the Government, in consultation with the Cell, may declare, by notification, any area in the State as a Scheduled area.

(2) Having regard to the quantum and pattern of rainfall and other relevant factors, the Government, in consultation with the Cell, may declare, by notification, any area in the State as Water Scarcity area for a period not exceeding six months at a time.

(3) Having regard to the depleted levels of water table and other relevant factors, the Government, in consultation with the Cell, may declare, by notification, any area in the State as an over exploited area.

5. Registration of existing well and permission for sinking a new well in the Scheduled area.- (1) The user of an existing well in a Scheduled area shall, within a period of sixty days from the date of commencement of this Act, apply to the Ground Water Officer for registration of an existing well, in the prescribed form and manner:

Provided that the Ground Water Officer may entertain any application for registration

of an exiting well after the expiry of the said period of sixty days, on payment of such late fee as may be prescribed, if he is satisfied that the owner of the existing well was prevented by sufficient cause from filling the application in time.

(2) The details to be furnished in an application under sub-section (1) shall include the following namely:-

- (i) the description of the source of water, such as type of wells, its exact location;
- (ii) the lifting device used;
- (iii) the quantity of drawal of ground water and hours of operation per day;
- (iv) the total period of use in each year;
- (v) the purpose or purposes for which ground water is being extracted;
- (vi) in case of irrigation well, the location and extent of area irrigated;
- (vii) in case of State, municipalities or community run water supply schemes, the details of the services involved in the addition to the quantities of water extracted, the diversion or pumping points and their locations;
- (viii) the year of construction and the year of commissioning.

(3) No person shall sink a well in a Scheduled area unless he has obtained permission in this behalf from the Ground Water Officer. Any person desirous of sinking a well shall apply, in the prescribed form and manner, to the Ground Water Officer for grant of permission and shall not proceed with any activity connected with sinking of the well unless permission is granted to him by the Ground Water Officer.

(4) On receipt of an application under sub-section (1) or sub-section (3), if the Ground Water Officer is satisfied that it shall not be against the public interest to do so, he may grant a certificate of registration of an existing well authorizing the continued use of the well or grant permission for the sinking of new well, as the case may be, subject to such conditions and restrictions and collection of such charges as may be prescribed from time to time:

Provided that no person shall be refused a certificate of registration of an existing well or permission for sinking a new well unless he has been given an opportunity of being heard.

(5) The decision regarding the grant or refusal of the certificate of registration, or grant or refusal of permission, as the case may be, shall be intimated by the Ground Water Officer to the applicant as far as possible within a period of 90 days from the date of receipt of application. Where it is not possible for the Ground Water Officer to grant the certificate of registration of an existing well or to grant permission for sinking a new well, as the case may be, the Ground Water Officer shall intimate the reasons therefore to the applicant so that he may make a fresh application after curing the defects if any specified therein.

(6) In granting or refusing a certificate of registration or granting or refusing permission under sub-section (4), in the prescribed form and manner the Ground Water Officer shall have regard to:-

- (a) the purpose or purposes for which the water is to be used or well is to be sunk;
- (b) the existence of other competitive users;
- (c) the existence of other wells in the locality;
- (d) the availability of ground water;
- (e) quality of ground water with reference to the use;
- (f) spacing of the ground water structures keeping in consideration the purpose for which water is to be used;
- (g) long term ground water behaviour;
- (h) the lifting devices proposes to be used;
- (i) the quantity of ground water withdrawal and hours of operation per day;
- (j) the effect of water availability in the nearby well; and
- (k) any other relevant or connected factors.

(7) The certificate of registration in respect of an existing well or the permission for sinking a new well shall be valid for a maximum period of five years from the date of issue of certificate of registration or permission, as the case may be, and after expiry of the period of five years, the well shall have to be freshly registered in accordance with the procedure laid down herein.

(8) If a registered well, whether an existing well or a newly sunk well, becomes defunct, this fact should be immediately brought to the notice of the Ground Water Officer, by the user of the ground water of the said well.

6. Grant of permission to transport ground water in the Scheduled area.- (1) No person shall transport ground water from a source of water in Scheduled area, more than 30,000 litres annually, by any means of surface transport or by pipeline without the permission of the Ground Water Officer.

(2) Any person desirous of transporting more than 30,000 litres of ground water annually from a source of water in a Scheduled area by any means of surface transport or by pipeline shall apply, in the prescribed form and manner, to the Ground Water Officer for the grant of permission and shall not proceed with any activity connected

with the transportation unless permission has been granted by the Ground Water Officer.

(3) On receipt of an application under sub-section (2), if the Ground Water Officer is satisfied that it shall be in the public interest to do so, he may grant permission for transporting the ground water, subject to such terms, conditions and restrictions as may be prescribed, or refuse to grant the permission:

Provided that no permission shall be refused unless the applicant has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal of permission shall be intimated by the Ground Water Officer to the applicant as far as possible within a period of 90 days from the date of receipt of the application. Where it is not possible for the Ground Water Officer to grant the permission for transportation of ground water, the Ground Water Officer shall intimate the reasons therefore to the applicant so that he may make a fresh application after curing the defects if any specified therein.

(5) In granting or refusing to grant permission under sub-section (3) the Ground Water Officer shall have regard to the following matters, namely:-

(a) the purpose or purposes for which permission to transport ground water is sought;

(b) the existence of other competitive users;

(c) the existence of other wells in the locality;

(d) the availability of ground water;

(e) the quality of ground water with reference to use;

(f) the long term ground water behaviour;

(g) the lifting device proposed to be used;

(h) the quantity of ground water drawal and hours of operation per day;

(i) the effect on the availability of water in the near by well.

(j) any other relevant or connected factor.

(6) Every permission granted under sub-section (3) shall be valid for a maximum period of one year and after expiry of said period of one year, the permission, if required again, shall have to be freshly applied for, in accordance with the procedure laid down herein.

7. Powers to alter, amend or vary the terms of registrations and permissions:- At any time after the grant of registration or permission under section 5 or section 6 as the case may be, the Ground Water Officer may, for technical reasons, alter, amend or vary the terms of the registration or permission after providing the holder of registration or permission, as the case may be, an opportunity of being heard.

8. Cancellation of permission / certificate of registration.- If the Ground Water Officer is satisfied, either on a reference made to him in this behalf or otherwise, that,-

(a) the registration or permission granted under section 5 or section 6, as the case may be, is not based on the true facts; or

(b) the holder of the registration, or permission, as the case may be, has without a reasonable cause, failed to comply with the conditions subject to which the registration or permission had been granted or contravened any provisions of this Act or the rules made thereunder; or

(c) a situation has arisen which warrants limiting the use of extraction of ground water, without prejudice to any penalty to which the holder of the registration or permission, as the case may be, may be liable under this Act, the Ground Water Officer may, after giving the holder of the registration or permission, as the case may

be, an opportunity to show cause, by order, cancel the registration or permission, as the case may be.

9. *Protective measures in Water Scarcity Areas or over exploited areas.*- (1) Upon declaration of any area as Water Scarcity Area or as over exploited area, the Ground Water Officer may, for the duration of the period for which the area remains so declared, by order,-

(a) prohibit the sinking of new wells in such area for any other purpose other than drinking, except with the permission of the Ground Water Officer, and the procedure laid down in section 5 of this Act shall, mutatis mutandis, apply to the disposal of an application received for sinking a well in that area for the said duration:

Provided that no restriction shall be imposed in a water scarcity area to the sinking of a well on behalf of the Government or a local authority for being used as a public drinking water resource:

Provided further that the Ground Water Officer shall grant the permission to sink a well subject to.-

- (i) the condition that the Ground Water Officer may, for reasons to be recorded in writing, by order, prohibit, restrict or regulate the extraction of water from such a well for such a period as may be specified in such order, if, in his opinion, it is necessary to do so in the public interest; and
- (ii) such other conditions and restrictions as may be prescribed.

(b) prohibit the extraction of water or impose such restrictions as may be considered necessary on the drawal of water from any existing well in such area if it is found to be adversely affecting any public drinking water source.

10. *Protective measures in over exploited areas.*- (1) Upon declaration of any area as an exploited area.-

(a) no person shall sink a well in that area unless he has obtained the permission of the Ground Water Officer and the procedure laid down in section 5 of this Act shall, mutatis mutandis, apply to the receipt and disposal of an application received for sinking a well in that area:

Provided that no restrictions shall be imposed in an over exploited area to the sinking of a well on behalf of the Government or a local authority for being used as a public drinking water source:

Provided further that the Ground Water Officer shall grant the permission to sink a well in that area subject to.-

- (i) the condition that the Ground Water Officer may, for reasons to be recorded in writing, by order, prohibit, restrict or regulate the extraction of water from such a well for such a period as may be specified in such order, if, in his opinion, it is necessary to do so in the public interest; and
- (ii) such other conditions and restrictions as may be prescribed.
- (iii) the Ground Water Officer may prohibit , by order, the extraction of water from any existing well during the period of six months from 1st February to 31st July, every year.

11. *Closing down of existing well in over exploited area.*- If an existing well is found to be adversely affecting any public drinking water source, the Ground Water Officer may, by order, after giving the owner a reasonable opportunity of being heard, direct

him to stop the extraction of water forthwith and close or seal the well, either temporary or permanently, having regard to the extent to which it so adversely affects.

12. Payment of compensation for closing down an existing well in over exploited area.-Where an order of permanently closing down or sealing of an existing well is made under section 11, the Ground Water Officer 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 and structures thereon and the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894), with regard to the determination of compensation of the well shall apply in determining the market value of the well under this section as though the well is sought to be acquired under that Act. No such compensation shall be paid in the case of temporary closing down of an existing well in an over exploited area:

Provided that, in the case of closing down of an existing well, permanently or temporarily, in an over exploited area, if water from that well was being used for irrigating crops standing at the time of making such an order, the compensation for such crops which shall be the market value of the standing crops based on the average yield of the preceding three years, shall be payable under this section:

Provided further that, if, for any reason, any well which has been permanently closed

or sealed, is allowed to be re-opened for extracting of water therefrom, any subsequent order made for permanently sealing or closing down such well again, shall not entitle the owner thereof to claim compensation for the well and the structures thereon except the compensation for the standing crops which shall be determined as aforesaid in the for going provision.

13. Power of Ground Water Officer:- (1) The Ground Water Officer or any person authorized by him in writing in this behalf, shall have the following powers, namely:-

(a) to enter on any property (private or Government) with the right to investigate and make any measurements concerning the land or water located on the surface or underground;

(b) to inspect the well which has been or is being sunk and the soils and materials excavated therefrom;

(c) to take specimens of such soils or other materials or of water extracted from such wells;

(d) to require, by order in writing, the person sinking a well to keep and preserve in the prescribed manner specimens of soils or any materials excavated therefrom for such period not exceeding three months from the date of completion or abandonment of the work as may be specified by the Ground Water Officer and thereupon such person shall comply with such order;

(e) to inspect and to take copies of the relevant record or documents and ask any question necessary for obtaining information (including diameter or depth of the well which is being sunk; the level at which the water is or was struck and subsequently restored/ rested, the type of strata encountered in sinking of the well and the quality of the water struck) required for carrying out the purposes of this Act;

(f) to require the user of ground water to install water measuring device on any water supplies when necessary to properly administer the water or where there is a reason to believe that the user does not comply with the provisions contained in this Act or any other sufficient reason for defending the public interest:

Provided that whether the user of ground water doesn't comply with the requisition issued to him within a period of thirty days, the Ground Water Officer may install such water measuring device and recover the cost from the defaulting user of ground water;

(g) to seize and keep custody of any equipment/ device utilized for illegal sinking and close the work executed, partly or fully;

(h) to require any user of ground water, who doesnot comply with the provisions of this Act and the rules framed thereunder, to close down any water supply or destroy any hydraulic work found to be illegal according to the provisions of this Act and the rules framed thereunder:

Provided that where the user of ground water doesnot comply with the requisition issued to him within a period of thirty days, the Ground Water Officer may himself carry out the necessary work and recover the cost from the illegal user as arrears of land revenue;

(i) to enter and search with assistance, if any, as he considers necessary, any place in which the Ground Water Officer has reason to believe that offence under this Act has been or is being committed and order in writing the person who has been or is committing the offence not to extract or use the ground water for a specified period;

(j) to exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules made thereunder;

(k) to advise the State Electricity Department for withdrawing / stopping power supply to the existing well in case of violation of any provision of this Act;

(l) to monitor that the State Electricity Department doesnot energise the wells without clearance from the Ground Water Officer;

(m) to close the use of toilet/ septic tank/ soak pit if it is found that it is polluting the well.

(2) The power conferred by this section includes the power to break open the door of any premise where sinking, extracting and use of ground water may be going on:

Provided that the power to break open the door shall be exercised only after the owner or any other person in the occupation of the premises, if he is present therein, refuses to open the door on being called to do so.

(3) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 93 of the said Code.

14. Powers of the Ground Water Officer regarding closure of the well and seizure of materials and equipment.- (1) On a complaint made or otherwise, about any contravention of any of the provisions of this Act, the Ground Water Officer may, by an order in writing, call upon the owner or the person in possession of the well to stop the extraction of water and any other contravention forthwith.

(2) Where the owner or person in possession of the well fails to comply with the order given under sub-section (1), the Ground Water Officer or an Officer duly authorized by him, may enter upon the land, remove obstructions, if any, close the pumping of water, disconnect the power supply, seize any material or equipment used with such extraction of water and take such action as may be required, and may close or seal the well.

(3) The closure of a well shall be made and a list of all materials and equipments seized shall be prepared in the manner prescribed.

(4) Where the Ground Water Officer or an Officer authorized by him has closed or sealed the well under sub-section (2), the cost incurred thereof shall be recovered from such owner or person as arrears of land revenue.

15. Service of orders, etc.- (1) Every Order under this Act shall be served,-

(a) by giving or tendering the order or notice or by sending it by post to the user for whom it is intended; or

(b) if the user cannot be found, by affixing the order or notice on some conspicuous part of his last known abode or place of business or by giving or tendering the order or notice to some adult male member of his family or servant or by causing it to be affixed on some conspicuous part of the land or building in which the well is being sunk.

(2) Where the person on whom the order or notice is to be served is a minor, service upon his guardian in the manner provided in sub-section (1) shall be deemed to be notice served upon the minor.

16. Protection against action taken in good faith.- No prosecution, suit or other legal proceedings shall be instituted against the Government, the Ground Water Officer or his authorized representatives for anything done or intended to be done in good faith under this Act, or the rules made thereunder.

17. Offences and Penalties.-

(A) For non-receipt of information:

If any user,---

(a) contravenes or fails to comply with any of the provisions of this Act or rules made thereunder, in supplying information as prescribed; or

(b) obstructs the Ground Water Officer or any other person authorized by him to exercise any powers under this Act, he shall be punishable---

(i) for the first offence, with fine which may extend to rupees one thousand; and

(ii) for the second and subsequent offence, with fine which may extend to rupees two thousand, every time.

(B) For illegal sinking/ construction and/ or use of wells and/ or transportation of water and/ or polluting and contaminating ground water:

If any user---

(a) contravenes or fails to comply with any of the provisions of this Act or rules made thereunder;

(b) obstructs the Ground Water Officer or any other person authorized by him to exercise any powers under this Act, he shall be punishable---

(i) for the first offence, with fine which may extend to rupees five thousand;

(ii) for the second and subsequent offence, with imprisonment for a term which may extend to six months and/ or with fine which may extend upto rupees ten thousand, every time.

18. Compounding of offences.- Any offence under this Act may be compounded by the Ground Water Officer, either before or after the institution of proceedings, subject to such conditions as may be prescribed.

19. Offences by Companies.—whenever an offence under this Act has been committed by a Company, every person who, at the time the offence is committed,

was in charge of, or was responsible to the Company for the conduct of the business of the Company, shall be deemed to be guilty of the offences and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation.- For the purpose of this section, “ Company” means any body corporate and includes a firm or other association of individuals.

20. Appeals.-- (1) Any person aggrieved by a decision or action of the Ground Water Officer under this Act, may, within a period of thirty days from the date on which the action is taken or the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the prescribed authority:

Provided that the prescribed authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the prescribed authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

21. Requisition of wells.- (1) The Ground Water Officer may, in public interest, for providing water for drinking purposes, requisition any well or water source from its owner after due notice in such a manner and in such a prescribed and for such period as may be specified in the order but in no case exceeding six months at a time.

(2) For a well requisitioned under sub-section (1), a compensation for the use of the well for extraction of water therefrom shall be paid to the owner, and such compensation shall be decided by the Ground Water Officer.

(3) In determining the compensation to be awarded for the compulsory requisitioning of a well or a water source under this Act, the Ground Water Officer shall take into consideration,-

(a) the market value of the standing crop, if any, based on average yield of the preceding three years;

(b) the damage sustained by the owner of the well or the water source by depriving him of the use thereof; and

(c) the generation charges including wear and tear of the pump and other accessories in cases where the Ground Water Officer decides to retain such facilities while requisitioning the well or the water source.

22. Power to charge fees.- The Government may charge such fees as may be prescribed for any permission granted under this Act.

23. Protection measures for public drinking water source and existing ground water structures in non-scheduled areas.- (1) Having regard to the interest of the general public to have supply of the requisite quantity of water for drinking purposes from the drinking water sources and to protect the existing ground water structures used for drinking and other essential purposes, no person shall sink any well for any purpose in the vicinity of the drinking water source within a distance of one hundred metres of such source or ground water structure. No person shall extract for the purpose of

transporting water from a well if another well or ground water source is located within a limit of one hundred metres.

(2) A person desirous of sinking a well for any purpose, within a distance of one hundred metres of a drinking water source or existing ground water structure, may do so only with the prior permission of the Ground Water Officer.

(3) A person desirous of transporting ground water from a well, if another well is located within a distance of one hundred metres of a drinking water source or ground water structure, may do so only with the prior permission of the Ground Water Officer.

(4) An application made for the permission under sub-section(2) or sub-section (3) shall be made to the Ground Water Officer in the prescribed form and manner and the procedure laid down for the grant of permission to sinking of a well or transportation of water in a Scheduled area under sections 5 or 6 of this Act, shall, *mutatis mutandis*, apply to an application made for sinking of a well or transportation of water in a non- scheduled area:

Provided that every permission granted under this section shall be subject to:-

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

(b) such conditions and restriction, as may be prescribed.

24. Offences under this Act to be cognizable.- (1) Any offence punishable under this Act shall be cognizable offence within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(2) No court shall take cognizance of any offence punishable under this Act, except upon a complaint in writing by the Ground Water Officer or an Officer generally or specially authorized by the Government in this behalf.

25. Provisions of this Act to have overriding effect.- The provisions of this Act and the orders issued or made under this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

26. Power to make rules.- (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:-

(a) the form and manner in which the application shall be made under this Act;

(b) the form and manner in which orders shall be passed by the Ground Water Officer;

(c) the manner in which the specimens of soils or other materials shall be kept and preserved;

(d) conditions subject to which offences may be compounded;

(e) prescribing the authority to hear appeals;

(f) the fees to be charged under the Act;

(g) any other matter which is to be or may be prescribed.

27. Laying of the notifications and rules before the Legislative Assembly.- All notifications and rules made under this Act shall be laid before the Legislative Assembly as soon as may be when the Legislative Assembly is in session and if not in session, immediately on reassembly of the Legislative Assembly and the Legislative

Assembly shall have power to annul or modify the notification or rules so laid by the resolution adopted for that purpose. On adoption of a resolution for annulment or modification of any notification or any rule, the notification or the rule shall be of no effect or shall stand modified accordingly.

Secretariat Annexe,
Panaji.

Dated: 29-1-2002

V.P. SHETYE,
Secretary to the
Government of Goa,
Law Department