



महाराष्ट्र जलसंपत्ती नियामन प्राधिकरण

**Maharashtra Water Resources Regulatory Authority
(MWRRA)**

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Order No.10 / 2017

In the matter of

**Case No.3/2017: Closure of wells in the influence area of Public Drinking Water Sources in
village Pathare, Tal. Rahuri, Dist.Ahmednagar**

Petitioner: 1) Sharad Bhausahab Tekale & 28 others
Through Adv. Kamlesh Mali, High Court
Vs

Respondents: 1) District Authority & Sub-divisional Officer
Shrirampur Division, Dist.: Ahmednagar & 5 others

Coram: Mr. K.P.Bakshi, Chairman
Mr. V.M.Kulkarni, Member (W.R.Engg.)

Date : October 03, 2017

ORDER

An Appeal was received on 28/7/2017 from Mr. Sharad Bhausahab Tekale and 28 others, residents of village Mauje Pathare Khurd, Tal. Rahuri, Distt. Ahmednagar.

The Appellants are aggrieved by an Order issued by the District Authority & Sub-Divisional Officer, Shrirampur Division, Distt. Ahmednagar dated 31/3/2017. The District Authority has issued the said Order on the basis of the complaint received from Shri. Nitin Popat Gangurde, of village Pathare Khurd, Tal. Rahuri stating that the Appellants' wells/borewells are located within a distance of 500 m. from the Notified Borewell, which is used as an alternative source of public water supply for the village Pathare Khurd. Subsequently, the S.D.O. & District Authority Shrirampur has conducted hearings on the matter on 18/03/2017 & 20/03/2017. On the basis of submissions and hearings, a report of Tahasildar, Rahuri dated 07/03/2017 and a report from Groundwater Survey & Development Agency (GSDA) dated 24/03/2017, the District Authority passed the said Order under section 21 and 22 of the Maharashtra Groundwater (Development & Management) Act 2009 (hereafter called as MGW Act, 2009) prohibiting pumping from the 29 wells / borewells & also to cut the electricity connection of these wells / borewells.

The Appeal is admissible under Section 56 of Maharashtra Groundwater (Development & Management) Act 2009. MWRRA held a hearing on 22/08/2017.



Summary of the hearing and written submissions:

1. Adv.Kamalesh Mali, on behalf of the Petitioner pleaded that after submission of Vakalatnama on 18/3/2017 sufficient time for collecting related records and filing the response was not given prior to hearing.
2. District Authority, clarified that, on the basis of the reports received from GSDA and Tahasildar, Rahuri, the order was issued by him on 31/03/2017. In this Order, it is mentioned that the Complainant wanted to withdraw his complaint during the hearing held on 20/03/2017, however, the District Authority considered it necessary to take action as there was a breach of the MGW Act, 2009.
3. The Authority asked for a copy of the notification of the Public Drinking Water Source. The District Authority produced a copy of Order of Collector, Ahmednagar, dated February 1, 2015.
4. Authority enquired about whether rainfall was inadequate so that tankers were required to be provided? On this, District Authority stated that, due to adequate rainfall there was sufficient water available in Primary Public Drinking Water Source at the time of Order and there is no evidence of using water tankers.
5. Authority specifically asked whether the wells/borewells were existing before notification of the source or dug after the notification? The District Authority replied that such details were not on record. In this regard Petitioners, told that the information of only 4-5 wells out of 29 can be made available from Gramsabha record, however for other wells it can be verified from electricity bills whether they were existing before the notification of source or dug after.
6. **Issues framed:**
 1. Whether the Public Drinking Water Source was notified under Section 20 of the MGW Act 2009?
 2. Whether the District Authority has obtained technical advice of GSDA as per provisions in Section 22 of the MGW Act 2009 before issuance of the Order?
 3. Whether the Petitioners' wells / borewells were existed before the notification dated 1/2/2015 or dug afterwards? This is a pre-requisite for action under Section 21/Section 22 of the MGW Act 2009.
 4. Whether the Petitioners' wells / borewells were really interfering with the Public Drinking Water Source adversely affecting drinking water supply?

Observations:

1. The said alternative Public Drinking Water Source (borewell) was notified as per Collector's Order dated 01/02/2015.



2. District Authority has taken technical advice of GSDA dated 24/03/2017 before issuing Order.
3. As regards the Issue 3 above, the District Authority has expressed inability to furnish the required information as the same was not collected prior to issuing the said Order.
4. As regards the Issue 4 above, it is clear from clarification of the District Authority during the hearing that Primary Public Drinking Water Source had adequate water and drinking water supply was not adversely affected.

As per Section 22 of the MGW Act, 2009, the extraction of water from wells existing prior to notification of Public Drinking Water Source, can be prohibited for a reasonable period of time if it is found that the wells are adversely affecting the Public Drinking Water Source. It is also necessary to take into consideration extent of rainfall, its pattern and such other relevant factors before issuing Order.

The Authority observed that in the present case the District Authority has framed the order under both the Sections 21 and 22 of MGW Act, 2009 randomly without verifying the fact as whether the said wells / borewells were existed at the time of notification of the said Public Drinking Water Source or dug afterwards. Authority also takes into consideration as per pleadings that there was sufficient water in notified Public Drinking Water Source which was not adversely affected.

ORDER


Considering the aforesaid facts, the impugned order of the District Authority, Shirampur dated 31/3/2017 cannot be sustained. It is quashed and set aside.

However, the present order would not be an impediment for Respondents to take recourse to provisions of MGW Act 2009 by following due procedure.

The District Authority may verify the fact from record whether the wells / borewells were existing before notification or dug afterwards and may take action under relevant Sections of the Maharashtra Groundwater Act, 2009 if the wells are interfering with Public Drinking Water Source, adversely affecting the drinking water supply.

The petition is accordingly disposed of with no costs.

By the Order and in the
Name of the Authority


(Dr. Suresh Kulkarni)
Secretary, MWRRA



