



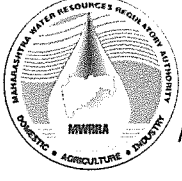
सत्यमेव जयते

# राज्य भूजल प्राधिकरण

महाराष्ट्र भूजल (विकास व व्यवस्थापन) अधिनियम, 2009 च्या कलम 3 अन्वये स्थापित वैधानिक प्राधिकरण

## State Groundwater Authority

A Statutory Authority Established u/s 3 of Maharashtra Groundwater (Development & Management) Act, 2009



स्वातंत्र्याचा अमृत महोत्सव

No. MWRRA/2024/Groundwater/Case No. 1(2020)/280

Date : 08/05/2024

Case No. 1 of 2020

In the matter of

An appeal filed by Shri Pramod Vasant Rao Gomkale R/o Simbhora Road, Taluka; Morshi, District Amravati under Section 56(2) of the Maharashtra Groundwater (Development and Management Act) ,2009 challenging the Sub divisional Officer, Morshi, District Amravati Order dated 03/06/2020

Please find enclosed herewith a copy of MWRRA Order No. 03/2024 dated 08/05/2024 in the above matter.

Encl : As above



*M. Dharane*  
(Mallikarjun Dharane)  
Secretary, MWRRA

### Copy for information and necessary action to:-

1. Shri Pramod Vasant Rao Gomkale, At Post:- Simbhora Road ,Taluka :- Morshi, District:- Amravati, Pin code: 444 905 (Appellant)
2. The District Authority and Sub Divisional Officer Morshi, Morshi, Taluka, Morshi, District:- Amravati, Pin code: 444 095,(Respondent No. 1) (Email- sdomorshi@gmail.com)
3. District Collector Amravati, Collector Office, Camp Road, Amravati - 444603,(Respondent No.2) (Email- amravati.collector @maharashtra.gov.in, rdc.amravati@gmail.com)

4. The Senior Geologist, Groundwater Survey and Development Agency, Tapovan Road, Camp, Amravati - 444602( **Respondent No. 3**) (Email - **sg\_amravati@rediffmail.com**)
5. The Director, Groundwater Survey and Development Agency ,Bhoojal Bhavan, Agricultural University Complex, Shivaji Nagar, Pune - 411 005 (**Respondent No.4**)  
(Email - **ddrd.gsda@gmail.com**)
6. Sau Durga Ramsanjiwan Tiwari, Through Shri Ishwar Namdeorao Shrisat (Dudhbhau),r/o Gujari Bazar, Taluka :- Morshi, District:- Amravati, Pin code: 444 905 (**Respondent No. 5**)



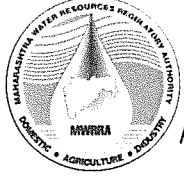
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स्वातंत्र्याचा अमृत महोत्सव

Order No. 03/ 2024

(In Case No. 1 of 2020)

In the matter of an appeal filed by Shri Pramod Vasant Rao Gomkale R/o Simbhora Road, Taluka; Morshi, District Amravati under Section 56(2) of the Maharashtra Groundwater (Development and Management) Act, 2009 challenging the Sub divisional Officer, Morshi, District Amravati Order dated 03/06/2020

Shri Pramod Vasant Rao Gomkale

.... Appellant

...Versus....

1. The District Authority and Sub Divisional Officer
2. District Collector, Amravati
3. The Senior Geologist, Ground Water Survey and Development Agency, Amravati
4. The Director, Ground Water Surveys and Development Agency, Pune
5. Sau Durga Ramsanjivan Tiwari, Through Shri Ishwar Namdeorao Shrisat (Dudhbhau)

..... Respondents



Appearance:

- 1) Shri Lawkesh Pramod Gomkale - Son of the Appellant
- 2) Shri Harish Kathare - Junior Geologist, GSDA, Amravati

Coram: Smt. Shwetali A. Thakare, Member (Economics)  
Dr. Sadhana S. Mahashabde, Member (Law)

Date: 08/05/2024

## BACKGROUND

The Authority received an Appeal dated 20.07.2020 filed u/s Section 56(2) of the Maharashtra Groundwater (Development and Management) Act, 2009 by Shri Pramod Vasantao Gomkale challenging the Order of Sub Divisional Officer Morshi, District -Amravati dated 03/06/2020.

### 1. Brief Summary of the Appeal :-

- i. The Appellant Shri Pramod Gomkale is the owner of agriculture field of Mauje- Nashirpur, Taluka- Morshi, bearing Gut No.12/2. The Appellant submitted that in the said agricultural land there was a well but the said well was in dilapidated condition.
- ii. The Respondent No. 5, in the present Appeal (Original Complainant/ Smt Durga Tiwari) lodged complaint against Appellant, Shri Pramod Gomkale (Original Respondent No.1) before the Sub Divisional Officer, Morshi. The Respondent No. 5, complained against Appellant regarding sinking of new well in his field illegally in the over-exploited area declared by the Collector's Notification dated 11/02/2013.
- iii. The SDO, Morshi in accordance with the Collector's Notification dated 11/02/2013 which prohibits the construction of new wells in over-exploited watersheds under Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 passed the Order dated 15/12/2017 in Complaint filed by Smt Durga Tiwari and directed Shri Pramod Gomkale to permanently stop lifting of water from well .



- iv. Against the said SDO Order an Appeal was filed before Additional Collector, Amravati under Section 247 of MLRC, 1966. The Additional Collector passed Order 26/7/2018 on the ground that the Appeal is not tenable for want of Jurisdiction as the case pertains to Maharashtra Groundwater (Development and Management) Act, 2009 (MGW Act 2009). The Additional Collector further pointed that SDO is District Authority u/s 17 of MGW Act 2009 and the appeal against the order of District Authority will be before the State Ground Authority u/s 56 (2) and disposed off the Appeal.
- v. In accordance with the Additional Collector Order dated 26/7/2018; the Appellant approached this Authority vide Appeal dated 16/08/2018 challenging the SDO Order dated 15/12/2017.
- vi. This Authority vide Order No. 17 of 2018 dated 15/11/2018 in Case No. 9 of 2018 passed the following Order: -
- a. *The Order in original dated 15/12/2017 as passed by the Respondent No 2- the Sub Divisional Officer, Morshi is set aside and remanded back to decide the matter in light of the provisions contended in the Maharashtra Groundwater (Development and Management) Act, 2009, after giving reasonable opportunity of Hearing to all parties concerned including original Complainant. The Order a fresh to be passed within a period of (4) four weeks from the receipt of this Order by the Respondent No 2.*
  - b. *Since, the said well is said to be situated in the over-exploited/critical watersheds as notified by the competent authority after following due process of law as confirmed by the concerned officer for & on behalf of the Respondent No 3 and 4, there shall be status-quo on the withdrawal of water from the said well, until an Order a fresh is passed by the Respondent No 2.*
  - c. *As far as other points in the said Order in Original under the present appeal ,this Authority do not intend to interfere and Order anything on it as these are concerned with the powers and authority exercised by the Respondent No 2 under the provisions of the Maharashtra Land Revenue Code, 1966 and hence, do not call for any interference from this Authority and thus the Appellant shall be free to avail the opportunity of appeal with the proper forum to challenge against the said points at Sr. No 2 and 4 of the said Order, if advised so.*
  - d. *The Appeal is disposed of accordingly as per the Orders herein above.*
  - e. *There shall be no Order as to the costs.*



- vii. In view of Authority's directions to SDO Morshi vide Order dated 15/11/2018; to decide the matter in light of the provisions contended in the MGW Act 2009 and to pass a fresh Order within a period of 4 (four) weeks. The SDO, Morshi conducted Hearing and upheld its previous Order dated 15/12/2017 as fresh Order dated 03/06/2020.
- viii. Aggrieved with this SDO, Morshi Order dated 03/06/2020; Shri Pramod Gomkale filed an Appeal dated 20/07/2020; u/s 56(2) of MGW Act 2009 before this Authority.
- ix. The Authority issued a show cause notice dated 15/10/2020 to all the Respondents calling upon them to show cause as to why an Appeal of Shri Gomkale be not allowed and also directed the Respondents to file their replies on or before 12/11/2020 to the State Groundwater Authority and copy to the Petitioner, failing which the Appeal shall be decided ex-party on Merit.
2. The Appellant has prayed for the following reliefs:-
- i. *To set aside the order passed by the respondent no 1 dated 03.06.2020 in MRC -81/Nashirpur-2/2018-19 in the matter of Pramod Vs Senior Geologist & Others,*
- ii. *To enquire the matter through Water Technical Senior Geologist after making inspection of well situated in Mouje Nashirpur, Tq, Morshi, Dist Amravati bearing Gut no 12/2, owned and possessed by the Appellant.*
- iii. *Call the report from Senior Geologist for the current year and technical survey, technical audit, and flow of water for the current year 2019-20 may kindly be called.*
- iv. *Grant any other suitable legal relief may kindly be granted in favour of appellant in justice interest.*
3. Written Submissions of Respondent No. 1, SDO, Morshi, District Amravati
- i. Shri Nitin Kumar Hingole, SDO, Morshi filed his reply on behalf of Respondent No. 1 before this Authority on 26.11.2020.



ii. The SDO submitted that on written complaint of Smt Durga Ramsanjiwan Tiwari; it is revealed that the Appellant without any previous permission dig a new well in his field which is against the legal provisions of MGW Act 2009 as the area is falling under overexploited watershed. Appellant without any previous as per the Act for digging well in his field which falls under Overexploited watershed is prohibited as per collectors' notification dated 11/02/2013.

4. Written Submissions of the Respondent No. 2, Additional Collector Amravati

i. The Respondent No.2, submitted that case pertains to MGW Act, 2009 and the SDO is district Authority as per Section 17 and an appeal against the District Authority lies with the State Authority as per provision of section 56 of MGW Act, 2009. Hence, said Appeal was not tenable for want of Jurisdiction and thus the Order dated 26.07.2018 disposed of and said appeal of Appellant filed.

5. Written Submissions of the Respondent No 3, Senior Geologist, Ground Water Surveys and Development Agency, Amravati: -

i. The Respondent No 3 submitted that he had visited the field gat no 12/2 and 12/3 of the Appellant and the Respondent No 5 situated in village Nashirpur and after considering the spot inspection by technical team of Senior Geologist office and inspected the fields of both parties and concluded with the following findings:

ii. The Respondent No 3 further submitted that, there is dug well in gut no 12/2 in field of the Appellant (Pramod Gomkale) with diameter 4.50 meter and depth 9.10 meter which falls within 110 meters from the well situated in gut no 12/3 with diameter 3.20 and depth 8.70 meters of Respondent No.5 (Sau Durga Tiwari).

iii. The field of the Appellant falls under the Over exploited area as per list annexed with the notification dated 11.02.2013 wherein there is prohibition on construction of new well and changing present status of



water use. This notification was issued under Section 6 and Rule 8(2) of the Maharashtra Groundwater (Regulation for drinking water purposes) Act, 1993.

- iv. Thereafter as per Groundwater Estimation Committee, 2015 norms the Groundwater assessment 2016 the village comes in the category of semi critical and the related approach paper has been submitted by Ground Water Surveys and Development Agency, Pune to State Groundwater Authority for continuation of notifying the villages under section 4 and for de-notifying u/s 5 of the MGW,2009 and the same is yet to be confirmed.
- v. It is submitted that the groundwater assessment for the current period 2019-20 as assessment 19-20/2045/20 dated 04/09/2020 is still under progress. The detailed assessment report will be submitted to the Central Government and after approval from the Government of India the same will be communicated to State Groundwater Authority.

6. Written Submissions of the Respondent No 4, Director - GSDA, Pune: -

The Respondent No 4 vide letter dated 16/10/2020 submitted that the prayers mentioned at Sr. no. 2 and 3 of the Appeal are pertaining to the Senior Geologist, GSDA, Amravati District Office and hence the Director, GSDA authorizes Senior Geologist, Amravati District to file Affidavit in reply on behalf of him.

7. Written Submissions of the Respondent No 5 (Smt Durga Tiwari): -

- i. Respondent No. 5 submitted that there is field survey no 12/2 H.R.0.80 belonging to her, including a well with installation of electric motor pump in it and having 300 fruit bearing orange trees. The northern side of the field of Respondent No. 5 there is field S. No 12/2 belonging to the Appellant Pramod Gomkale.

Respondent No. 5 submitted that as per Collector District, Amravati notification dated 11/02/2023, Mauje- Nashirpur, Taluka Morshi, District Amravati is the village under watershed WR-3, as Over-exploited watershed area. Hence, there is prohibition to dug new well





and this fact was known to all Agriculturist. If any agriculturist requires to dug new well then, he must have to get permission from the appropriate authority.

- iii. The Respondent No. 5 submitted that in April 2015; the Appellant without obtaining any permission from the concerning Authority started to dug new well in his field. When such fact came to the knowledge of Respondent No 5 then on 13/04/2015 her power of attorney filed complaint against Appellant before SDO, Morshi stating that the area where the field of appellant and respondent situated, are in dry zone and there is strictly prohibition to dug new well or water source and in spite of this facts appellant is going to the dug new well without acquiring permissions from concerning authority. Upon complaint of Respondent, SDO took cognizance and called Talathi report. The Talathi Report duly exposed the appellant illegally digging a new well and creating a new water source in his field without acquiring permission from proper authority. Hence, SDO ordered appellant to stop his illegal construction of well otherwise it will cause an offence by him, and he will be punishable for the same.
- iv. The Respondent No. 5 further submitted that the Appellant neither complied with the order of SDO nor stopped the illegal digging of the new well. Therefore on 18/04/2015 Respondent again filed complaint before SDO. The SDO issued show cause notice dated 30/04/2015 to the concerning Talathi and revenue officer of the said area and by treating the said Noice Talathi and revenue officer of the said area prepared a spot Panchnama and necessary report filed on 02/05/2015, which makes it clear that, the appellant on illegally constructing the new water source in his field.
- v. The Respondent further submitted that, by disobeying the prohibitory order of SDO, Appellant illegally constructed a new well in his field, that is in Dry Zone.



#### THE PROCEEDINGS BEFORE THIS AUTHORITY

8. A hearing in the matter was conducted on 01/02/2024 in the office of the State Groundwater Authority, Mumbai. Shri Lawkesh Pramod Gomkale

(son of the Appellant) was present for the said Hearing. Shri Harish Kathare, Junior Geologist, GSDA, Amravati was present in person, and he stated that he was representing Respondent No. 3. None appeared on behalf of the Respondent No. 1, 2, 4 and 5.

- i. During the Hearing, Shri Lawkesh Pramod Gomkale submitted that in Amravati District, Taluka- Morshi, Mauja- Simbhora in the year 2014-15 wells were approved by the Government as per Maharashtra Rural Employment Guarantee Scheme (MREGS) and its construction is already completed. He further submitted that in such wells where permissions to sunk wells was received under MREGS scheme. He further submitted that, there was no role of GSDA in granting of permission to the new wells constructed under MREGS at Taluka- Morshi, Mauja- Simbhora, this area is also declared as overexploited area.
- ii. He also sought permission from the Authority to submit list of all such wells approved by the Government under MREGS schemes after approval of the Authority he submitted the list of all such wells.
- iii. In view of Authority's directions during Hearing; Shri Lawkesh Pramod Gomkale submitted that in Amravati District, Taluka- Morshi, Mauja- Simbhora in the year 2014-15 wells were approved by the Government as per MREGS and its construction is already completed and they have also got funding from State Government of Rs.3,00,000/.
- iv. He also submitted that adjoining the said survey number; is Mauja Nashirpur wherein he was already removing garbage from the pit located in the field and only because water was discovered; action was taken against him as per District Collector's notification 2013.
- v. He also submitted list of over-exploited villages wherein the Government without going into technical requirements/specifications granted permissions to the wells which are irrigated wells wherein already construction has been completed and the farmers have also received funds/financial aid for the same.



## FRAMING OF ISSUES

9. This Authority, having considered the contentions made in the Appeal and submissions of the parties, the documents placed on record, framed the following relevant issues for consideration and adjudication.
- Whether the Authority has jurisdiction to adjudicate the present matter?
  - Whether the Order of SDO, Morshi dated 30/06/2020 to be set aside?
10. Before answering the above issues, the Authority referred relevant legal provisions contained in the following: -
- Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 and Maharashtra Groundwater Rules 1995
  - Maharashtra Groundwater (Development and Management) Act, 2009.

a. The relevant provisions of the Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 are reproduced as below:-

### Section 2 Definitions

#### Sec (2)(2) Appropriate Authority

*"Appropriate Authority" means the Collector of a district and includes any officer, not below the rank of the Deputy Collector 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.*

#### Section 2(5) Over exploited watershed

*Over-exploited watershed", means a water shed where the estimated annual groundwater extraction is more than 85 percent of the estimated average annual groundwater recharge, calculated in the prescribed manner, and declared as such under section 6.*

#### Section 2(7) Public drinking water source



"Public drinking water source", means a well from which the State Government or a local authority or such other authority as the State Government may, by notification in the Official Gazette specify, provides water to the public, and includes such weir or any other drinking water source as may be notified by the Collector;

#### Section 2(10) Sink

"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;

#### Section 2(13) Watershed

"Watershed" means an area confined within the topographic water divide line, as identified and notified by the Groundwater Survey and Development Agency from time to time, having regard to the purposes of this Act.

#### Section 6 Declaration of over-exploited watershed

The Appropriate Authority may, on the advice of the Technical Officer, declare a watershed as over-exploited watershed.

#### Section 7 Prohibition of sinking wells in over exploited watershed

(1) Notwithstanding anything contained in the Maharashtra Land Revenue Code, 1966 or any other law for the time being in force, and having regard to the prime need of water for drinking water purpose 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:

Provided that, the provisions of sub section (1) shall not apply to the sinking of a well on behalf of the State Government or a local authority for being used as a public drinking water source.

(2) An application for permission under sub section (1) shall be made to the Appropriate Authority in such form and accompanied by such fee as may be prescribed.

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

- the condition that the Appropriate Authority may, for 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:*

- *such other conditions and restrictions as may be prescribed.*

The Authority also referred relevant provisions contained in the rules framed under 1993 Act.

Maharashtra Groundwater (Regulation for Drinking Water Purposes) Rules, 1995 framed under 1993 Act.

Rule 2(1(d) Definition

*"The sinking of well" means with all its grammatical variations and cognate expressions in relation to a well includes any drilling, boring or digging of new well, deepening carried out to an existing well.*

Rule 6 Application for permission to sink a well

*(1) Any person who desires to sink a well for irrigation or drinking water purposes within a distance of five hundred meters of a public drinking water source notified under rule 3, shall apply to the Appropriate Authority in the form given in Appendix "B", either in person or by registered post .The application shall be accompanied by a fee of rupees four hundred or a counterfoil of challan for having paid rupees four hundred in the deposit head 2702, Minor Irrigation, 800, other receipts. The application shall also be accompanied by a copy of the village-map or locations of the public drinking water sources and the proposed well. The map shall be duly certified by the Talathi of the village concerned.*

Rule 8 (2) Declaration of over-exploited Watersheds

*The Technical Officer shall take into consideration the average recharge and withdrawal of groundwater of different watershed considered to be over-exploited for the previous 3 years in accordance with the method and guidelines laid down by the Director, Ground Water Survey and Development Agency and prepare the list of over-exploited watersheds with full area details. The Technical officer, thereafter will send the list of such over-exploited watershed with full details of calculations, technical information and area details to the Appropriate Authority.*

*On receipt of the report if the Appropriate Authority is satisfied, he may declare the area of the watershed as over-exploited watershed. The Declaration shall be in the Form given in the Appendix "D".*



Government of Maharashtra enacted Maharashtra Groundwater (Development and Management) Act 2009 whereby Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 Act was repealed.

b. The relevant provisions of Maharashtra Groundwater (Development and Management) Act 2009 are as below:

Section 2 Definitions

Sec 2 (iv) "Deep-Well" means a machine-made pit or hole, usually vertical, that derives groundwater from the pores, weathered strata, interstices, fractures or joints of the rocks or soils that it penetrates, and includes a bore-well, tube-well of normally sixty metre or of more depth, which taps one or more aquifers.

Sec 2 (xxvi) "sink" means, with all its grammatical variations and cognate expressions, in relation to a well, includes digging, drilling or boring of a new well or an existing well, deepening and modification of radials and galleries of the existing wells,

Sec 2(xxviii) "State Authority" means the State Ground Water Authority established under section 3.

Sec 2 (xxxviii) "Watershed Water Resources Committee" means the Watershed Water Resources Committee constituted under section 29;

Sec 2 (xxxix) "well" means a well sunk for the search or extraction of groundwater by a person or persons and includes open-well, dug-well, bore-well, dug-cum-bore-well, tube-well, filter point, collector well, infiltration gallery, recharge well, disposal well or any of their combinations or variations, excluding the structures sunk by the authorised officials of the Central or the State Government for carrying out scientific investigations, exploration, augmentation, conservation, protection or management of groundwater.

Words and expressions used and not defined in this Act but defined in various irrigation or water resources or other related Acts in the State, in force shall have the same meanings as respectively assigned to them in those Acts.

Section 8 Prohibition of drilling of deep-wells, withdrawal of groundwater from existing deep-well and provision for levy of cess



8 (1) *The State Authority shall prohibit the drilling of deep wells within the notified and non-notified areas, for agriculture or, industrial usage:*

*Provided that, the State Authority may, after recording the reasons in writing and in the prescribed manner grant specific permission to any person or user of groundwater to drill any deep well within the notified or non-notified area, for drinking water purposes.*

8(2) *The State Authority shall regulate, including total ban on, the construction of wells, including deep-wells, for any purpose within the notified area.*

#### Section 14 Delegation of powers and duties of State Authority

*The State Authority may by general or special Order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it under the Act shall, in such circumstances and under such condition ,if any, as may be specified in the order issued in this behalf by the State Authority, be exercised or discharge by any employee of the State Authority ,the District Authority, the Watershed Water Resources Committee or the Groundwater Surveys and Development Agency.*

#### Section 17 District Authority

*The State Government shall, by notification in the Official Gazette, designate any officer not below the rank of Tahsildar, to be the District Authority for such area as may be specified in the notification for the purposes of this Act.*

#### Section 56 Appeals

56. (1) *Any person aggrieved by a decision, order made, action taken by the Watershed Water Resources Committee, Panchayat, Panchayat Samiti or urban local bodies under this Act may, within a period of sixty days from the date on which the action is taken or the decision or order is communicated to him and on payment of such fees as may be prescribed, prefer such an appeal to the District Authority:*

*Provided that, the District Authority may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within time.*

(2) *If the aggrieved person is not satisfied with the decision of the District Authority under sub-section (1), within a period of sixty days from the date on which the decision is communicated to him and on payment of such fees as may be*



prescribed, prefer an appeal against the order of the District Authority to the State Authority and the decision of the State Authority shall be final.

(3) On receipt of an appeal under sub-section (1) or (2), the District Authority or the State Authority shall, as the case may be, after giving the applicant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

Section 59 Repeal and saving

59. (1) The Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done, or any action taken under or in pursuance of the said Act before such repeal, shall continue to have effect in relation thereto and section 7 of the Bombay General Clauses Act, 1904, shall apply with respect to the repeal of the said Act.

11. The Authority referred to the following provisions as below:-

a. Collector's declaration dated 11/02/2013.

The Collector Amravati issued Notification dated 11/02/2013 which is about over-exploited watersheds or over dug well, it states about villages which were classified in the mini watershed as "over-exploited". The said Notification specifically refers to Section 6 of the Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 and read with Rule 8 (2) framed under the Act. This notification prohibits the construction of new wells and the change of use of present wells falling under overexploited and exploited watersheds villages. The list of 370 village's names is annexed, this Notification dated 11/02/2013 was issued by District Collector, Amravati.

b. Gazette Notification dated 26/06/2015

The Authority also referred Gazette Notification vide no 160 dated 26/06/2015, issued by Water supply and sanitation Department, Government of Maharashtra under Section 17 of Maharashtra Ground Water (Development and Management) Act, 2009 which empowers the SDO's to exercise powers, function and duties as District Authority.





## 12. OBSERVATIONS OF THE AUTHORITY ON ISSUES FRAMED

This Authority, after giving due consideration to the pleadings, submissions and evidence on record has adjudicated the above issues. The findings of this Authority on the issues framed above are as under:

**i. Whether the Authority has jurisdiction to adjudicate the present matter?**

The Present Appeal is filed before the Authority by the Applicant/ Original Respondent who is aggrieved person and not satisfied with the decision of the District Authority. Therefore the present Appeal is filed under Section 56(2) of the Maharashtra Groundwater (Development and Management) Act, 2009.

Therefore, the finding is affirmative and Authority has got jurisdiction to adjudicate present matter.

**ii. Whether the Order of SDO, Morshi dated 30/06/2020 to be set aside?**

The Sub-Divisional Officer has issued the impugned order considering the Amravati Collector notification dated 11/02/2013. The Collector Amravati's notification is about over-exploited watersheds and it states about villages which were classified in the mini watershed as "Over exploited". This Notification prohibits the construction of new wells and the change of use of present wells falling under over exploited & exploited watersheds villages. The list of 376 village names is annexed to the notification dated 11/02/2013.

The Appellant's well is in the village falling into over exploited category from the list of 376 villages as per Collector's notification dated 11/02/2013.

The classification of the watershed into over-exploited/exploited watershed is a continuous process and its status is modified periodically. Declaration of village and the prohibitions accordingly are not perpetual.



The Maharashtra Ground Water (Development and Management) Act, 2009 came into force on 3/12/2013. As per Section 59 (1) of this Act the Maharashtra Ground Water (Regulation for Drinking Water Purposes) Act, 1993 was repealed and was not in force when this matter was decided.

It is important to note here that, the Authority vide an Order dated 31/07/2015 u/s 8(1) of Maharashtra Ground Water (Development and Management) Act, 2009 imposed prohibition on the sinking of deep wells in 80 critical and over exploited zones. The Appellant's well is in the village falling in above 80 critical villages.

Considering Authority's fresh Order issued dated 31/07/2015 for whole of Maharashtra in which the prohibitions were imposed for Appellant's village. This nullifies the implementation of Collector's notification dated 11/2/2013.

Prohibitions imposed as per Authority's Order dated 31/7/2015 are for deep wells only whereas section 2 (1) (iv) of the MGW Act 2009 the term Deep Well is defined as the well which is Sixty meter or more in depth. Whereas Senior Geologist of GSDA, Amravati stated that the depth of the Appellant's well is 9.10 meters. Therefore, the prohibitions imposed as per the Authority's Order dated 31/7/2015 are not applicable for the Appellant.

Therefore, SDO, Morshi's Orders dated 15/12/2017 and 03/06/2020 prohibiting Appellant permanently from the extraction of the water from his well is null and void.

### FINDINGS OF THE AUTHORITY

- i. Section 56 of the MGW Act, 2009 Act empowers District Authority to decide the Appeals. Section 56 makes it clear that only person aggrieved by action taken by the Watershed Water Resources Committee, Panchayat, Panchayat Samiti or urban local bodies under this Act may, within a period of sixty days from the date on which the action is taken or the decision or order is communicated to him and on payment of such fees as may be prescribed, prefer such an appeal to the District Authority.



- ii. Since the Appellant approached this Authority u/s 56 (2) of MGW Act, 2009 against Order of SDO, Morshi; this Authority is inclined to pass the Order in the present matter.
- iii. From the Order of SDO, Morshi it is evident that this Authority vide its Order dated 15/11/2018 had remanded the matter to SDO Morshi to decide in light of provisions contended in the Maharashtra Groundwater (Development and Management) Act, 2009 after giving opportunity of Hearing to all the parties concerned including original Complainant. However, the SDO, Morshi has maintained same stand as in its earlier Order dated 15/12/2017 and issued Order dated 03/06/2020 without giving reference to any specific provisions under MGW Act, 2009.
- iv. Considering Authority's fresh Order pertaining to prohibition on the sinking of deep wells in 80 critical and over exploited zones dated 31/07/2015 for whole of Maharashtra in which the prohibitions were imposed for Appellant's village. This nullifies the implementation of Collector's notification dated 11/2/2013.
- v. Prohibitions imposed as per Authority's Order dated 31/7/2015 are for deep wells only whereas section 2 (1) (iv) of the MGW Act 2009 the term Deep Well is defined as the well which is Sixty meter or more in depth. Whereas Senior Geologist of GSDA, Amravati stated that the depth of the Appellant's well is 9.10 meters. Therefore, the prohibitions imposed as per the Authority's Order dated 31/7/2015 are not applicable for the Appellant.
- vi. The SDO, Morshi has maintained same stand as in its earlier Order dated 15/12/2017 and issued Order dated 03/06/2020. Sr. No 2 and 4 of the SDO's Order dated 15/12/2017 are concerned with the powers and authority exercised by the SDO, Morshi under the provisions of Maharashtra Land Revenue Code,1966 and this Authority is not having Jurisdiction for directions given at Sr. No 2 and 4 of the SDO's Order dated 15/12/2017. The Appellant shall be free to avail the opportunity of appeal with the proper forum to challenge against the same.



## ORDER

Having heard the parties to the litigation, and after giving due consideration to the documents as well as data on record, submissions made by the parties and having adjudicated the issues framed as above, this authority hereby orders as under:

- i. The Appeal is allowed
- ii. The Order of SDO, Morshi dated 03/06/2020 is set aside
- iii. No Order as to costs.

The Appeal under Case No. 1 of 2020 is disposed off accordingly.

Delivered on 08/05/2024.

Sd/-

(Adv. Dr. Sadhana Mahashabde)  
Member (Law)

Sd/-

(Smt Shwetali Thakare)  
Member (Economics)



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