

The Maharashtra Drinking Water Supply Requisition Act, 1983

MAHARASHTRA

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Act 20 of 1983

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The Maharashtra Drinking Water Supply Requisition Act, 1983[15th April, 1983](Act No. 20 of 1983)An Act to provide for requisitioning of water supply during scarcity for drinking purposes from any wells, tanks and storages of water.WHEREAS, both the Houses of the State Legislature were not in session;AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to have a special law to provide for requisitioning of water supply during scarcity for drinking purposes from any wells, tanks or other storages of water and to provide for matters connected therewith or incidental thereto; and, therefore, promulgated the Maharashtra Drinking Water Supply Requisition Ordinance, 1983 on the 26th February, 1983;AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-fourth Year of the Republic of India as follows:-

1. Short title and commencement.-

(1)This Act may be called the Maharashtra Drinking Water Supply Requisition Act, 1983.(2)It shall be deemed to have come into force on the 26th February, 1983.

2. Definitions.-

In this Act, unless the context otherwise requires,-(a)"owner of a well" includes the person in actual possession of the well;(b)"well" includes a bore-well or a tank or any other storage of water.

3. During scarcity, power to order supply of water to public for drinking purposes from any well.-

If the Collector or an officer authorised by the Collector (hereinafter referred to as "the requisitioning authority"), after making such inquiry as he deems fit, is satisfied that due to scarcity of drinking water in any local area, it is necessary or expedient that the water in any well on any land under the irrigation command of a canal, or on any other land which is used for irrigation or any other purposes whatsoever, shall be temporarily utilised, wholly or partially, by the public for drinking purposes, the requisitioning authority shall, from time to time, by order in writing require the owner of the well to supply or cause to be supplied to the requisitioning authority or its agents or such other persons or classes of persons, or to allow them to draw or lift, such quantities of water, from such date, during such hours and such periods and in such manner, as may be specified in the order. (1) Any order made under this section may, from time to time, be amended by the requisitioning authority, and may be cancelled by it at any time. (2) (a) Any order made under this section shall, if the owner of the well is an individual person, be served or caused to be served on that person - (i) personally, by delivering or tendering to him the order: or (ii) where the person cannot be found, by leaving an authentic copy of the order with some adult member of his family; or (iii) by post. In the case of an order affecting a 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. (b) The order shall also be given wide publicity in the local area by the requisitioning authority in such manner, which the authority considers best calculated to bring it to the notice of the persons who would be able to get water made available to them under the order, free of charge. (4) Any person who refuses to comply with or contravenes any order made under this section as in force for the time being, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

4. Guidelines for making order to supply water from any well.-

For the purposes of making any order under section 3, the requisitioning authority shall take into consideration the total water supply available or likely to be available in the well during a certain period, the minimum requirement of the owner during the period for his personal use for drinking, and the quantity of water which can reasonably be released for distribution to the persons residing in the local area, where there is scarcity of drinking water.

5. Power to obtain information and enter any land for determining whether water should be supplied from any well.-

(1) The requisitioning authority may, with a view to determining whether an order may be made or continued under section 3, direct the owner of any well to furnish to the requisitioning authority such information in his possession relating to the land on which the well exists and regarding the availability of water supply therefrom and the purposes for and extent to which it is being used by him during the last few years, as may be specified in the direction. The information shall be furnished within such time as may be specified in the order. (2) The requisitioning authority, after giving reasonable notice to the owner of any well, may enter upon any such land, with such assistants and workmen as may be necessary, and carry on inspection and survey with a view to determining whether an order under section 3 may be made or continued and in what manner and

subject to which conditions such order should be made or continued. For this purpose, the requisitioning authority may ask the owner to be present at the time of such inspection and survey and ask any person who is present all necessary questions, may make use of any apparatus or machinery belonging to the owner and may do all other acts necessary to collect the required information.(3)Whoever refuses to comply with or contravenes any direction issued under this section or obstructs the lawful exercise of any powers conferred by this section on the requisitioning authority or its assistants or workmen shall, on conviction, be punished with fine which may extend to one thousand rupees.

6. When order is made for supply of water, right to enter land for obtaining such supply.-

(1)Whenever an order is made under section 3 for supply of water from any well, the requisitioning authority and any persons authorised by it in this behalf shall have a right to enter upon the land at all reasonable hours for the purpose of supervising and regulating the obtaining and distributing the sanctioned water supply regularly or for any other work connected with such supply, and the persons or classes of persons specified by the requisitioning authority shall, subject to such conditions as may be imposed by the requisitioning authority, be deemed to be authorised to have right of way through adjoining lands, and to enter upon the land where the well exists, during the specified hours, to make use of any apparatus or machinery belonging to the owner or the requisitioning authority for drawing or lifting water, and to receive the quantity of water sanctioned for them by the requisitioning authority, from time to time.(2)Any person who receives or is authorised to receive any quantity of water under this Act and refuses to comply with or contravenes any provision of this Act, or the rules made thereunder, or of any conditions imposed thereunder, shall, on conviction, be punished with fine which may extend to one hundred rupees.

7. When order is made for supply of water powers to provide apparatus or machinery or water pipes.-

(1)When an order is made under section 3 for supply of water from any well, it shall be lawful for the requisitioning authority and any persons authorised by it in this behalf to fix any apparatus or machinery, on or near the well, for drawing or lifting or measuring water and after giving reasonable notice to the owners or occupiers of the lands concerned of its intention so to do, to enter upon the lands and execute all the necessary works for laying water-pipes through, across or under such lands for carrying water from the well to the distribution centre or centres selected by the requisitioning authority and for repairing or replacing such apparatus, machinery or water-pipes, from time to time.(2)In executing any work under this section as little damage as can be shall be done, and-(a)the work shall be executed with the least practicable delay;(b)the ground or portion of any construction which may have been opened, broken up or removed for the purpose of executing the work shall be filled in. reinstated and made good by the requisitioning authority, with the least practicable delay;(c)any owner or occupier of any land, who claims and proves to the satisfaction of the requisitioning authority that he has sustained any substantial damage by the execution of the work, shall be paid such amount as the requisitioning authority may by order determine.(3)Any person

who is aggrieved by the order made by the requisitioning authority under clause (c) of sub-section (2) 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 requisitioning authority other than the Collector, and to the Commissioner if the order is made by the Collector, and the provisions of section 9 shall, mutatis mutandis, apply to such appeal.(4)Whoever obstructs the lawful exercise of any powers conferred under this section on the requisitioning authority or the persons authorised by it, shall, on conviction, be punished with fine which may extend on one thousand rupees.

8. Amount payable to owner for utilisation of water from his well.-

When an order is made under section 3 for obtaining supply of water from any well, the owner, who complies with the order, shall be paid such amount as may be fixed by agreement between the owner and the requisitioning authority :Provided that, such amount shall not exceed the maximum limit as may be fixed, by an order in this behalf by the State Government, from time to time.

9. Appeals.-

(1)When an order is made under section 3 requiring any owner of a well to supply such quantities of water from his well, during such hours and during such periods, as may be specified in the order, the owner, who is aggrieved by any of these matters in the order 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 requisitioning authority other than the Collector, and to the Commissioner 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, pass such order as it may think fit. Every order made by the appellate authority shall be final and shall not be called in question in any Court.(2)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.

10. Protection of action taken under Act.-

(1)No suit, prosecution or other legal proceeding shall lie against any person for 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.(2)No suit or other legal proceeding shall lie against the State Government or any officer of the State Government or any requisitioning authority 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.

11. Power to make rules.-

(1)Subject to the condition of previous publication, the State 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 -(a)provide for registration of names and addresses of persons, or for issuing passes or tickets to persons who desire to obtain

water supply;(b)determining the quantity of water which may be obtained by each person or by each family for themselves and if possible for their cattle:(c)specifying the hours during which water supply may be obtained;(d)prescribing the conditions to be observed by persons obtaining water supply and by the owners of wells from which such supply is obtained;(e)prescribing the records to be maintained by the requisitioning authority and the owners of wells;(f)the manner of deciding and making payments to the owners of wells for water supply obtained from their wells;(g)any other matters connected with obtaining and distributing water supply for the purposes of this Act.(3)Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

12. Exemptions.-

This Act shall not apply to any wells belonging to or in possession of the Government or a local authority or a public trust exclusively for a religious purpose.

13. Repeal of Mah. Ord. V of 1983 and saving.-

(1)The Maharashtra Drinking Water Supply Requisition Ordinance, 1983 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

14. Removal of difficulties.-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order, do anything, which appears to it to be necessary or expedient to remove the difficulty :Provided that, no such order shall be made after the expiry of the period of two years from the