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**BEFORE THE NATIONAL GREEN TRIBUNAL****O.A. No.639/2022****Pritipal Sharma Vs. Govt. of NGT****NOTE BY AMICUE CURIAE Dated 11.11.2025**

The three primary statutory instruments regulating ground water extraction in Delhi are namely i) Directions issued on 18.5.2010 by the Lt. Governor, Delhi under section 5 of the EPA, which directions were further amended on 10.1.2014 by adding two additional directions at serial numbers 12 and 13 (Pg. 2724 of Paper book) herein after referred to as 'D5'. ii) Central Govt. (MoJS) Notifications dated 24.09.2020 and an Amendment Notification dated 29.3. 2023 u/s. 3(3) r/w section 5 of the EPA thereby notifying the guidelines to regulate ground water extraction hereinafter referred to as 'GWER'. The said guidelines make it mandatory to seek an NOC from the prescribed Authority unless exempted before abstracting GW. (iii) Standard Operation Procedure (SOP) issued in 2020 (Pg. 2025 of PB) by the Dept. of Environment Govt. of NCT of Delhi pursuant to the Hon'ble Tribunals order dated 15.5.2020 in O.A. 685/2019.

The Hon'ble Tribunal may in addition to the conditions and provisions already prescribed may consider the following suggestions:

(I) Para 1.1 of GWER r/w Direction No. 14 of D5 makes it mandatory for registration of drilling rigs and the data base of the wells drilled.

(a) It should be made mandatory that no bore well shall be drilled by any person/ firm other than the one registered with the Authority.

- (b) The contractor drilling the well be mandated to prominently display its name /address/ Tel-No./ Reg. No. on the said extraction structure.
- (c) The person/ firm which is the owner/ occupier of the premises should have all the details and particulars of the said drilling contractor. In cases of illegal bore wells if the owner/ occupier fails or refuses to furnish the details of the contractor who had drilled and established the GW extraction structure, it should be presumed that such structure was got installed by the owner/ occupier himself and an additional amount of Rs.500,000/- be imposed for breach of the GWER. the said amount of Rs. 500,000/- should be over and above the amount of Environmental Compensation enumerated in para. 15 of GWER. It is noticed that no penalty has been prescribed for establishing a GW extraction structure without NOC under the GWER.
- (d) In cases where the owner /occupier furnishes the particulars of the contractor. In that event the premises of the contractor be searched and all drilling equipment found therein be seized and confiscated as provided and contemplated in Direction No. (6) of D5 . In addition EC of Rs.10 Lakhs be imposed along with prosecution. GWER Table 16.1 (S. No.14) merely provides for a penalty of Rs.1 Lakhs per drilled structure. Further, no EC has been contemplated in Para 15 GWER.
- (II) E.C. has been dealt with in Para 15 GWER. In order to calculate the duration of the operation of an illegal borewell it should be presumed that the illegal borewell has been installed and operating for the last 5 years unless and until proved to the contrary by the owner /occupier.

Secondly, the EC needs to factor in the diameter of the pipe in order to calculate the volume of illegal water extracted. Thirdly, EC has not been provided for Residential Apartments/ Group Housing Societies which are drawing GW unauthorisedly and/ or drawing beyond the permissible limit.

- (III) Para 6 GWER deals with abstraction of GW by bulk water suppliers and the rates applicable to them. Surprisingly neither EC nor ~~Detriment~~ <sup>Deferment</sup> Factor has been specified for bulk suppliers in Para 15 GWER. This anomaly needs to be rectified. Only penalty has been specified in Table 16.1 (Cl. 14) GWER for Non-Registration of water supply tankers.
- (IV) Reading of GWER and in particular Para 6 prima facie indicates that only Bulk suppliers of GW can transport GW by tankers, provided that such tankers have a installed GPS based system, which is mandatory as per Direction 13 of D5 . Further Table 16.1 (S. No.14) GWER provides for a penalty of Rs.5 Lakhs for non-registration of water supply tankers. However, no penalty has been provided for unfunctional/dysfunctional of GPS system nor for failing to install a GPS system. It is suggested that a sum of Rs.5 Lakhs be imposed for such failure as it would not be possible to calculate the number of trips and quantum of water illegally transported.
- (V) DJB ha issue a circular dt. 26.12.24 (Pg 2698 of P.B.) listing the conditions for seeking a NOC. The said conditions being 'Advisory' as mentioned in the 'Subject Title' of the said circular the same be made judicially binding.
- (VI) The responsibility and liability of the Administrative Officers who are responsible for implementing the Directions, Regulations, SOP as

already directed by the Hon'ble Tribunal in para 34 of the order dated 28.5.2025 be made absolute.

(VII) Lastly, the directions issued by the Hon'ble Tribunal in Para 124 of Order dated 28.08.2024 excepting at Srl No. iv, viii, xiv and xv be made absolute.



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