

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO. 108 OF 2015

JAGANNATH RAYALU PARDESHI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Shri Patil Paresh B.

AGP for Respondents/ State : Shri P.S.Patil.

Advocate for Respondents 5, 6 and 9 : Ms.Chaitali Kutti-Chaudhari.

Advocate for Respondents 14 to 19, 21 to 27 : Shri Vijay B. Patil.

Advocate for Respondent 11 : Shri V.C.Patil h/f Shri S.M.Godsay.

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**CORAM: S.C. DHARMADHIKARI
AND
MANGESH S. PATIL, JJ.**

DATE :- 07th July, 2017

PC.:

1 The Petitioners are of the opinion that some private parties are digging up the Wells in their lands, but if that activity continues, the level of groundwater would decrease. Further, groundwater resources will be depleting, means there will be water scarcity. This has been overlooked by the statutory authorities though the lands are within the vicinity of the irrigation project. Hence, this Court should issue necessary directions to the statutory authorities.

2 In that behalf, the law that is relied upon by the Petitioners is the Maharashtra Groundwater (Development and Management) Act, 2009 (for short "the Act of 2009"). That Act, according to the Petitioners'

advocate, facilitates and ensures sustainable, equitable and adequate supply of groundwater of prescribed quality, for various category of users, through supply and demand management measures, protecting public drinking water resources and to establish the State Groundwater Authority and District Level Authorities, etc.. The purpose to be achieved is proper management and regulation with community participation and prevent exploitation of groundwater for the purposes other than permissible.

3 However, we find that there is a clear dispute of fact. A public official, namely, the Irrigation Sub-Division Head, Pachora, District Jalgaon has filed an affidavit and stated that the Agnawati Medium Project is far away (about 10 kilometers) from Gat Nos.54 and 56 of village Sonewadi Shivar, Taluka Kannad, District Aurangabad. The subject is related to Badarkha M.I. Tank, Taluka Pachora, District Jalgaon. The Wells are situated in private owned lands at down-strain side of Badarkha M.I. Tank. The Petitioners are not sure whether, the activity is affecting Agnawati Medium Project or Badarkha M.I.Tank. Agnawati Medium Project is far away i.e. 10 kilometers from these Wells. Even the Wells and referable to Badarkha M.I. Tank Project are in private lands. The Irrigation Department says that it has no right to restrict, block or close these Wells, which are in private lands. That Department has power to restrict digging of Wells within the area of 200 metres and when the land is Government land or acquired for the irrigation project. In this case, the lands are

private and not Government lands or the lands acquired for the project.

4 In these circumstances we do not think that this litigation can be entertained as a public interest litigation and aimed at preventing depletion of groundwater resources. When there is clear dispute about the location and nature of the project, identity of the lands, then, it would be unsafe to proceed further.

5 As far as the applicability of the Act of 2009 is concerned, there is no notification as well and within the meaning of Section 4 of that Act issued so as to regulate development and management of groundwater.

6 In the light of the above, this Public Interest Litigation is disposed of.