

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

85 WRIT PETITION NO.778 OF 2021

**JAGANNATH HARI PATIL
VERSUS
PANDHARINATH ANANDA KISAN NHA VI AND ANOTHER**

...
Advocate for Petitioner : Mr. G.V. Wani
AGP for Respondent 2 : Mrs. R.P. Gaur
Advocate for Respondent 1 : Mr. A.J. Patil
...

**CORAM : ARUN R. PEDNEKER, J.
DATED : 25/09/2023**

PER COURT :

1. Heard the learned counsel for the respective parties.
2. It appears that the appellant made application under the Maharashtra Groundwater (Development and Management) Act, 2009 for closure of well of respondent No. 1 as the well of respondent No. 1 is within 500 meters of the public water source which is prohibited under the Act. The learned counsel submits that the Tahsildar concerned is the District Authority under the Act to initiate any action for closure of the well situated within 500 meters of the public water source.
3. However, in the instant case, it appears that the Tahsildar had issued directions to the Circle Officer to initiate action. But the authority under the Act should not be below the rank of Tahsildar in terms of section 17 of the Act. It is not certain as to whether the said Tahsildar has been designated officer under the Act.
4. The order passed by the Tahsildar directing the Circle Officer to initiate action is challenged by the present respondent No. 1 before the Collector. The learned counsel for the petitioner submits that the Collector

is not the authority under the Act and therefore, such directions could not have been challenged before the Collector and that the appeal against the order of Tahsildar is maintainable before the State Authorities.

5. Having heard the learned counsel for the parties, it is apparent from section 17 of the 2006 Act that the State Government shall notify the designated officer not below the rank of Tahsildar to be the District Authority. In view of the same, the proceedings so initiated by the Circle Officer on the basis of directions issued by the Tahsildar are *per se* illegal and consequently, the order passed by the Tahsildar, directing the Circle Officer to initiate action and the appellate impugned order passed by the Collector is illegal and consequently quashed.

6. The parties have not contesting before me on the issue whether the Tahsildar is the notified designated officer/District Officer under the 2006 Act and whether powers are conferred with the said Tahsildar.

7. In view of the same, the writ petition is disposed of with directions as under :-

A) The application dated 2.3.2020 filed by the petitioner before the Collector and assigned by the Collector to Tahsildar be decided by the Tahsildar in accordance with law.

B) All contentions are left open.

C) In the event, the Tahsildar is the designated officer as constituted under the 2006 Act, the Tahsildar to decide the said application within a period of six months from the date of receipt of this order.

[ARUN R. PEDNEKER J.]

ssc/