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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 189]

भोपाल, शुक्रवार, दिनांक 5 जुलाई 2024—आषाढ़ 14, शक 1946

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 5 जुलाई 2024

क्र.-10474-119-इक्कीस-अ(प्रा).- भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, खुले नलकूप में इंसानों के गिरने से होने वाली दुर्घटनाओं की रोकथाम एवं सुरक्षा विधेयक, 2024 (क्रमांक 17 सन् 2024) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है।

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव.

MADHYA PRADESH BILL

NO. 17 OF 2024

THE MADHYA PRADESH KHULE NALKUP MEIN INSAANO KE GIRNE SE HONE
WALI DURGHATNOA KI ROKTHAAM EVAM SURAKSHA VIDHEYAK, 2024

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A Bill to prevent incidents or fatal accidents by human beings falling into an open borewell or tubewell, to take penal action against the negligent drilling agency and landowner, along with actions to be contemplated against the drilling agency, if proper safety measures are not adopted by the drilling agency at the time of drilling borewell/tubewell and for matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the seventy-fifth year of the Republic of India as follows: -

CHAPTER-I

PRELIMINARY

1. (1) This Act may be called The Madhya Pradesh Khule Nalkup Mein Insaano Ke Girne Se Hone wali Durghatnao Ki Rokthaam Evam Suraksha Adhinyam, 2024. **Short title, extent and commencement.**

(2) It shall extend to the whole State of Madhya Pradesh.

(3) It shall come into force on the date of its publication in the Madhya Pradesh Gazette.

2.(1) In this Act, unless the context otherwise requires: - **Definitions.**

- (a) "Competent Authority" means the person designated as the Competent Authority as prescribed in the rules made under this Act;
- (b) "Drilling Agency" means a person or authorized person or a firm (including Government or Semi-Government Agency) which is involved in the work of drilling borewell/tubewell by mechanical or other means.
- (c) "Landowner" means a landowner referred to as Bhumi Swami in Section 158 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);
- (d) "Local Government" means the Urban Local Bodies (ULBs) constituted under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), Municipal Council, Nagar Parishad constituted under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) and Panchayati Raj Institutions (PRIs) constituted under the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhinyam, 1993 (No. 1 of 1994);
- (e) "Man" means a male human being of any age and "woman" means a female human being of any age;

- (f) "open tube well or borewell" means a tube well or borewell which is not covered or sealed as prescribed in the rules made under this Act and kept open as it poses a threat to fatal accident;
- (g) "person" includes any company, association or body of individuals, whether incorporated or not;
- (h) "Public nuisance" as defined in Section 270 of the Sanhita,
- (i) "Rules" means the rules made under this Act;
- (j) "Sanhita" means Bhartiya Nyaya Sanhita, 2023 (No. 45 of 2023);
- (k) "State Government" means the Government of Madhya Pradesh;
- (l) "tube well or borewell" means a narrow and deeper well drilled for water in the ground by mechanical or other means with or without casing pipe to draw water or for other purposes in the earth underground.
- (m) "victim" means a person as defined under sub-section (y) of section 2 of the Bharatiya Nagarik Suraksha Sanhita 2023 (No. 46 of 2023);
- (2) words and expressions used herein and not defined, but defined in the Bharatiya Nyaya Sanhita 2023 (No. 45 of 2023), the Bharatiya Nagarik Suraksha Sanhita 2023 (No. 46 of 2023), the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) or the General Clauses Act, 1957 (3 of 1958) have the same meanings respectively as assigned to them in those Acts.

CHAPTER-II

ROLE, RESPONSIBILITIES AND PROCEDURES FOR DRILLING TUBEWELL OR BOREWELL

- Responsibility of the drilling agency.** 3.(1) Drilling agency, before drilling a bore well/ tube well, shall generate a permit to drill a borewell/tubewell after filling in the data on a web portal as prescribed in the rules.
- (2) Drilling agency shall display at the drilling site, complete details regarding the drilling agency, and landowner and shall take all necessary precautionary measures during and after completion of drilling as prescribed in the rules.
- Responsibility of landowner/ drilling agency regarding old/non-functional/ failed/ unfinished borewell/ tubewell.** 4.(1) Any borewell/tubewell which is not in a working condition on the date on which this Act comes into force, shall be closed by the landowner, on whose land the borewell//tubewell is situated, within a period of 3 months from the date of applicability of this act.
- (2) Any running borewell or tubewell that becomes non-functional must be capped by the landowner, as per the procedure prescribed in the rules.
- (3) In case, the borewell/tube well after drilling -
- (i) fails, or
- (ii) remains unfinished,
- the drilling agency shall cap/close the borewell/tubewell as prescribed in the rules.
- (4) Any contravention, with respect to section 04(1), (2) and (2) shall be dealt as per provision as prescribed under section 9 of the Act.

5. The competent authority shall have the power to,-

- (i) to enter the area of the borewell/ tubewell;
- (ii) to take measures to prevent accidents,
- (iii) to verify the safety provisions made at the site of the open tubewell/borewell,
- (iv) to deploy labour and machinery in case of any accident/mishappening due to negligence.

Power of the competent authority.

CHAPTER-III

PROCEDURE TO BE ADOPTED FOR RESOLVING THE COMPLAINTS AGAINST THE OPEN BOREWELL OR TUBEWELL

6. (1) Any Government official may take cognizance of any Matter suo-moto on the report or complaint made by any person regarding an open borewell or tubewell.

Power to take any action by Government officials.

(2) On receiving the report and/or complaint, the concerned Government official shall report the matter to the competent authority of the territorial area in which the tubewell/ borewell is situated in the manner prescribed in the rules.

(3) If the complaint is found to be true, the complainant shall be eligible for a reward as prescribed in the rules.

7. The expenditure incurred in capping open borewell/tubewell shall be recovered from the drilling agency or landowner as per the provisions for the recovery of arrears of land revenue under the Madhya Pradesh Land Revenue Code, 1959, in case landowner or drilling agency, as the case may be, fails to act as per section 4 or directions of the competent authority.

Capping of open borewell or tubewell.

8. In case of the occurrence of any accident due to negligence on the part of the drilling agency or landowner, as mentioned under section 4 of this Act, First Information Report (FIR) shall be registered against such drilling agency or landowner.

Registration of first information report against drilling agency or landowner.

CHAPTER-IV

OFFENCES AND PENALTIES

9.(1) Whoever contravenes any of the provisions mentioned in section 4 of this Act, the competent authority shall issue notice to the concerned drilling agency/landowner with the direction to take corrective measures and in case the drilling agency/landowner fails to comply with the directions, then the competent authority may impose a fine upto Rupees 10,000/- (Ten thousand only) for the first offence and for each subsequent offence a fine upto Rupees 25,000/- (Twenty-five thousand only).

Offence and penalties.

(2) Whoever contravenes any of the provisions mentioned in Section 4 of this Act which leads to any accident or death, then he shall be punished upon conviction, as per the relevant provisions under Sections 100, 105, 106 and 110 of the Sanhita.

(3) The expenditure incurred during the rescue of any person during the accident, shall be recovered from the drilling agency or landowner as prescribed in the rules as per the provisions for the recovery of arrears of land revenue under Madhya Pradesh Land Revenue Code, 1959.

CHAPTER-V

APPEALS

- Appeals.** 10. Any person aggrieved by the orders passed under this Act, may, within the period of 30 days, prefer an appeal before the appellate authority as prescribed in the rules.

CHAPTER-VI

MISCELLANEOUS PROVISIONS

- Transitory provisions.** 11. Any byelaws made by the Local Body or Panchayat Department of the State Government in relation to the provisions of drilling, operation, and maintenance of tube well and borewell shall continue to remain in force to the extent they are not inconsistent with the provisions of this Act until rules are framed by the State Government under this Act.
- Power to make rules.** 12. The Government may, by notification in the Gazette, make rules, regulations, and bye-laws to carry out the purposes of this Act.
- Power to remove difficulties.** 13. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order publish, in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

To stop fatal accidents of children falling in the open and uncovered tubewells or borewells, the Hon'ble Supreme Court of India in its Judgment dated 11-02-2010 and 06-08-2010, passed in W.P. (Civil) No. 36/2009 has said that different departments/ organization/ persons dig the tubewells or borewells. Out of those borewells or tubewells some are kept open and uncovered by the drilling agencies, such incidents, and fatal accidents must be prevented. The Hon'ble Supreme Court has issued guidelines for the prevention of incidents and fatal accidents. In a similar matter, a *suo-moto* petition bearing number W.P. 12725/2023 was also filed in the Hon'ble High Court of Madhya Pradesh, Jabalpur, it was directed by the Hon'ble High Court in its interim order dated 25-04-2024 that a law must be enacted by the State Government to prevent such fatal accidents in the State.

2. To prevent such fatal accidents in the State, it is proposed for registration of the drilling agency in a portal and intimation by the drilling agency before drilling of a borewell or tubewell. It is also proposed that the drilling agency and landowner shall take preventive measures during and after the drilling of the tubewell or borewell. Provisions of fine and penalty have also been proposed in this Bill under various sections for disobedience and negligence on the part of the landowner and drilling agency in keeping the borewell or tube well open and uncovered and if any accident occurs due to such negligence of the landowner and drilling agency shall be held responsible. The Government officials are also vested with *suo-moto* powers to keep a check on the negligence of landowners and drilling agencies.

3. Hence this Bill.

BHOPAL :

KAILASH VIJAYVARGIYA

DATED THE 2nd July, 2024

Member-in-charge.