Status of Groundwater Governance in India: Challenges and Constraints with Case Studies – V. Kunhambu, Regional Director, Central Ground Water Board, SWR, Bengaluru. (E: rds wr-cgwb@nic.in)

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Water is not only an essential element for our survival but is also an important vehicle for economic development of the nation. Although water is a renewable resource, its reserve in nature is limited and therefore, we have to plan for its sustainable development and efficient management so that the growing demands of rising population, expanding industries and rapid urbanization are adequately met. To ensure the equity in distribution and ensure availability/sustainability, water governance should also emerge as an inevitable tool for water resource management

The term governance deals with the processes and systems by which an organization or society operates. The World Bank defines governance as “the exercise of political authority and the use of institutional resources to manage society’s problems and affairs”. An alternative definition suggests that governance is “the use of institutions, structures of authority and even collaboration to allocate resources and coordinate or control activity in society or the economy”. Thus, governance can be taken to be broadly synonymous with authority, decision making, power, administration, or policy decision.

A comprehensive policy framework and associated statutes for implementation is a prerequisite for effective management of any natural resources, especially water resources. The objective of the National Water Policy is to take cognizance of the existing situation, to propose a framework for creation of a system of laws and institutions and for a plan of action with a unified national perspective on which various states can formulate their own State water policy realizing the ground truths which varies from state to state. NATIONAL WATER POLICY was formulated in 1987, revised in 2002 and 2012. Since water is a state subject, almost all state also formulated respective State Water Policies. Major emphasis in NWP 2012 as far as governance is concerned are (a) Water Regulatory Authority should be set up to fix water tariffs with provision of differential pricing for the pre-emptive and high priority uses of water. (b) Community based water management should be institutionalized and strengthened. (c) Water Users Associations should be given statutory powers to collect and retain a portion of water charges, manage the volumetric quantum of water allotted to them and maintain the distribution system in their jurisdiction. Water is a state subject as per the constitution of India. Thus, states have the exclusive power to regulate water supplies, irrigation and canals, drainage and embankments, water storage, hydropower and fisheries and almost every state has enacted its own irrigation act. While surface water sector is bestowed with appropriate legal frame work for adjudication, ground water which cater to significant share of irrigation and domestic water requirement, remain

untouched as it enjoyed the privilege of appendage with land ownership as per Indian easement act 1882. The necessity for regulation of ground water withdrawal was felt only in 1970s when due to green revolution and industrialization rapid ground water exploitation has started depleting the aquifer. The Union Government have circulated a Model Bill in 1970 to all States and Union Territories to enable them to (a) enact suitable legislation for regulation and control of ground water development. The State Governments were to acquire powers to restrict the construction of ground water abstraction structures by individuals or communities for all uses except that of drinking water in any area declared as notified area based on report from Ground Water Authority of State in public interest. (b) For discharging the various functions to be acquired by the Government under the legislation, a Ground Water Authority was to be constituted by each state. No concrete action was initiated by almost all states. Thereafter, the issue remained more or less dormant for 20 years after which the Central Government revived the bill in tune with its National water Policy (1987) and made some revisions. The revised bill was circulated by Ministry of Water Resources to States for adoption with modification in the year 1992, & again in 1996. No action except by Kerala State. The Panchayat Raj Act, 1992, mainly on the basis of the discretionary and exclusive power of the Panchayat under the Constitution of India and doctrine of public trust were relied for judicial remedy for governance disputes. Alarming decline in ground water levels due to over exploitation led to a PIL to the apex court (M.C. MEHTA *VERSUS* UNION OF INDIA AND OTHERS, W.P. (C) NO. 4677 OF 1985). The supreme court has ordered on 10 December 1996 the central government to constitute an authority to regulate groundwater use and development under the environment (protection) act, 1986. On the directions of Hon,ble Supreme Court, CGWB has been constituted as an Authority under Section 3(3) of the Environment (Protection) Act, 1986 on 14th January, 1997 for the purpose of regulation and control of Ground Water Management and Development. The creation of CGWB with clear statutory mandate and over-riding power for controlling and regulating the development & management of ground water resource of the country, Ministry of Water Resources, GOI circulated revised Model Bill, 2005 to “Regulate and Control the Development and Management of Ground Water” on 28.02.2005.

An attempt is made to brief the evolution of Groundwater regulatory measures in India, the Ground water Resources Estimation methods and categorisation of OCS blocks which forms the unit of regulation vis-vis water policy cum prioritisation of water use along with the challenges and constraints in enforcing regulatory measures with case studies.

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