



# महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

(महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, २००५ चे कलम ३ अन्वये स्थापित वैधानिक प्राधिकरण)

## Maharashtra Water Resources Regulatory Authority

(A Statutory Authority Established u/s 3 of Maharashtra Water Resources Regulatory Authority Act, 2005)



स्वातंत्र्याचा अमृत महोत्सव

MWRRRA/2019/Legal/Case No. 15 (2019)/202

Date : 01/04/2024

### Case No. 15 of 2019 & Case No. 16 of 2019

In the matter to review of this Authority's Order dated 19/09/2014 and quash & set aside Government Resolution dated 12/09/2018

Please find enclosed herewith a copy of MWRRRA Order No. 02/2024 dated 01/04/2024 in the above matter.

Encl : As Above



*M. Dharane*  
(Mallikarjun Dharane)  
Secretary, MWRRRA

### Copy for information & necessary action to :-

1. Rajendra Bhagwatrao Ghumare, R/o. Pathare Taluka Sinnar, District Nashik and 2 others (Case No. 15 of 2019) and Harishchandra Sahakari Pani Purwatha Sansthache Sahakari Federation, Amrut Nagar, Taluka Sangamner, District Ahmednagar (Case No. 16 of 2019) through Adv. Rajendra L. Kute, Flat 3, Plot No. 73, Hari Om Apt., Gadiya Vihar Road, Mayurban Colony, Shahanoorwadi, Aurangabad - 431 005 (Petitioners)
2. Principal Secretary, Water Resources Department, Mantralaya, Madam Kama Road, Mumbai - 400 032 (Respondent No. 1)
3. Executive Director, Godavari Marathwada Irrigation Development Corporation, Sinchan Bhavan, Jalna Road, Chhatrapati Sambhajnagar - 431 005 (Respondent No. 2).

4. Chief Engineer, North Maharashtra Region, Water Resources Department, Sinchan Bhavan, Triyambak Road, Nasik - 422 002 **(Respondent No. 3)**.
5. Superintending Engineer & Administrator, Command Area Development Authority, Sinchan Bhavan, Trimbak Road, Nashik - 422 002 **(Respondent No. 4)**
6. Executive Engineer, Ahmednagar Irrigation Division, Sinchan Bhavan, Nagar Chhatrapati Sambhajinagar Road, Ahmednagar - 414 001 **(Respondent No. 5)**

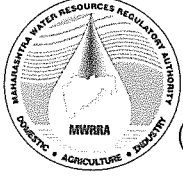


# महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

(महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, २००५ चे कलम ३ अन्वये स्थापित वैधानिक प्राधिकरण)

## Maharashtra Water Resources Regulatory Authority

(A Statutory Authority Established u/s 3 of Maharashtra Water Resources Regulatory Authority Act, 2005)



ORDER NO. 02/2024

Case No. 15 of 2019 & Case No. 16 of 2019

In the matter to review of this Authority's Order dated 19/09/2014 and  
quash & set aside Government Resolution dated 12/09/2018

Rajendra Bhagwatrao Ghumare,  
R/o. Pathare Taluka Sinnar,  
District Nashik and 2 Others

in Case No. 15 of 2019

Harishchandra Sahakari Pani Purwatha  
Sansthache Sahakari Federation,  
Amrut Nagar, Taluka Sangamner,  
District Ahmednagar & Other

in Case No. 16 of 2019

....Petitioners

----Vs-----

1. Principal Secretary, Water Resources Department, Mantralaya, Mumbai.
2. Executive Director, Godavari Marathwada Irrigation Development Corporation, Sinchan Bhavan, Jalna Road, Aurangabad.
3. Chief Engineer, North Maharashtra Region, Nashik.
4. Superintending Engineer & Administrator, Command Area Development Authority, Sinchan Bhavan, Trimbak Road, Nashik.
5. Executive Engineer, Ahmednagar Irrigation Division, Ahmednagar.

.....Respondents



Adv. Rajendra L. Kute Advocate for the Petitioners

**Coram : Dr. Sanjay Chahande, Chairperson**

**CA. Shwetali A. Thakare, Member (Economics)**

**Adv. Dr. Sadhana S. Mahashabde, Member (Law)**

**Date : April 01, 2024**

1. Rajendra Bhagwatrao Ghumare, R/o. Pathare Taluka Sinnar, District Nashik and 2 others filed a Petition on 03/07/2019 before the Maharashtra Water Resources Regulatory Authority (MWRRA) and it was listed as Case No. 15/2019. The Petitioners prayed for the following reliefs in their Petition;

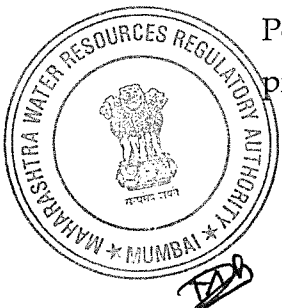
A) *That, this Hon'ble Authority may kindly be review the order dated 19.09.2014 passed by this Authority considering the fraud committed by Mendhigri Committee.*

B) *Quash and set aside the G.R. dated 12.09.2018 issued by the State Government being contrary to MWRRA Act, 2005, Constitution of India etc., and for that purpose issue necessary order.*

C) *Direct the respondents not to put the reservation of Palkhed, Gangapur Complex on Darana Complex while releasing the water as per the order dated 19.09.2014 in Jaikwad Dam and for that purpose issue necessary order.*

D) *Any other appropriate relief may kindly be granted in favour of the petitioners.*

2. Meanwhile, Harishchandra Sahakari Pani Purwatha Sansthache Sahakari Federation, Amrut Nagar, Taluka Sangamner, District Ahmednagar and other have also filed a Petition on 26/06/2019 before MWRRA and it was listed as Case No. 16/2019. Most of the contentions raised in this Petition are similar to the contentions raised in the Petition filed by Rajendra Bhagwatrao Ghumare. The Petitioners prayed for the following reliefs in their Petition;



- A) That, this Hon'ble Authority may kindly be review the order dated 19.09.2014 passed by this Authority considering the fraud committed by Mendhigri Committee.
- B) Quash and set aside the G.R. dated 12.09.2018 issued by the State Government being contrary to MWRRRA Act, 2005, Constitution of India etc., and for that purpose issue necessary order.
- C) Direct the respondents not to put the reservation of Palkhed, Darna, Gangapur, Mula Complex on Pravara Compex while releasing the water as per the order dated 19.09.2014 in Jaikwad Dam and for that purpose issue necessary order.
- D) Any other appropriate relief may kindly be granted in favour of the petitioners.
3. After filing the Petitions before this Authority, the Authority tagged Case No. 15/2019 (Rajendra Bhagwatrao Ghumare and others) and Case No. 16/2019 (Harishchandra Sahakari Pani Purwatha Sansthache Sahakari Federation and others) together. After scrutiny of these Petitions, the Authority directed the Respondents to submit para-wise Affidavit in Reply. However, none of them complied. Meanwhile, due to the COVID-19 Pandemic and the vacancy of the post of Chairperson and Members, the present matters could not be taken up in time.
4. After, filing of the post of Chairperson and Members by the Hon'ble Governor of Maharashtra, the matters were perused by the newly constituted the Authority. Regarding prayer in both these petitions primarily is for review of the MWRRRA order dated 19/09/2014. However, this order was upheld by the Hon'ble High Court at Bombay. Hence, the basic issue of admissibility of this case arose. As per the MWRRRA Regulations, the primary scrutiny to see the technical compliance before the admission of the Petition is to be done by the Secretary of the Authority. Once this is fulfilled, then the issue of admissibility is to be dealt with. In this context, the Regulations 15(7) of Maharashtra Water Resources Regulatory Authority (Conduct of Business) Regulation, 2013 reads as follows:

*"The Authority may admit the application / appeal for hearing without requiring the attendance of the applicant / appellant. However, the*

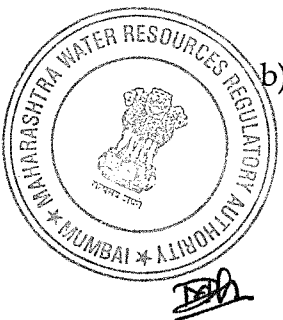


*DB*

*Authority shall not pass an order refusing admission of the applicant / appellant without giving the party concerned an opportunity of being heard. The Authority may, if it considers appropriate, issue notice to such person or persons, as it may desire to hear on the admission of applicant / appellant”.*

Hence, this matter was kept for hearing for determining the admissibility of the case.

5. The Authority at the outset observed that the petitioners are praying for review of the Authority's order dated 19/09/2014 when the order itself has been confirmed by the Hon'ble High Court at Bombay. Adv. Rajendra Kute appeared for both the petitioners insisted that the case is admissible. His contention was that Mendhegiri Committee has given false and incorrect data in its report and according to him, fraud and irregularities are committed while preparing the said report. Therefore, this order needs to be reviewed. Adv. Kute further argued that the Government Resolution dated 12/09/2018 should be quashed. When the Authority pointed out that, this Government Resolution is about replanning of water use of Jayakwadi Project. Adv. Kute insisted that the Authority has jurisdiction over this aspect. He pointed out the provision of Section 11(p) and (q) of MWRRA Act, 2005.
6. Having heard the advocate on the issue of admissibility, the observations of the Authority are as follows:
  - a) It is pertinent to note that the Hon'ble High Court at Bombay extensively has dealt with the Mendhegiri Committee Report in its Order dated 23/09/2016 in PIL 173/2013 and others. It also upheld the Authority's decision to rely on the Mendhegiri Report for releasing water to the Jayakwadi Dam. It is also important to note that said Hon'ble High Court's Order at present is challenged before the Hon'ble Supreme Court in SLP No. 21241/2017 and others.
  - b) As far as the argument on Government Resolution dated 12/09/2018 is concerned, it is pertinent to reiterate Section 11(p) and (q) of MWRRA Act, 2005; under which according to the Advocate this order can be challenged.



“(p) to administer the use and Entitlement of water resources within the State in a manner consistent with the State Water Policy to ensure the compliance of the obligation of State with regard to the apportionment of interstate waters between the State and other States;

(q) to promote efficient use of water and to minimize the wastage of water and to fix reasonable use criteria for each Category of Use;”

- c) The Authority is of the view that, Government Resolution is about water replanning of Jayakwadi Project. This Government Resolution also made changes in the sectoral allocation of Jayakwadi Project. The power of such sectoral allocation is vested with the State Government as per Section 16A of the MWRRA Act. Section 11(p) and (q) are not attracted in this case as they primarily pertain to administration of entitlement and reasonable use criteria. Further, their 3rd prayer about Palkhed, Gangapur complex is concerned, it is related to basic order of MWRRA dated 19/09/2014 and thus a part of first prayer i.e. review of the order.
- d) It is seen that, one of the petitioners Rajendra Ghumare filed two Writ Petitions No. 10357/2018 and 4629/2022 before the Hon'ble High Court at Bombay about challenging Mendhegiri Committee Report. His primary prayer is for review of the Authority's order which is upheld by the Hon'ble High Court at Bombay. Further, the ground of this review which is, Mendhegiri Report, this itself is again challenged before the Hon'ble High Court at Bombay.
- e) In view of above, it is seen that the Petitioners have moved into two different forums on the same subject matter which is contrary to provisions of law and the principle of *Res Subjudice* where the same subject matter is pending in a Court of Law for adjudication between the same parties, the other Court is barred of to entertain. In the present matter as the Petitioner has approached two different forums for the same subject matter; the Petitioner has violated the basic principle of *Res Subjudice* by filing of similar cases in different Courts. As observed earlier, the Authorities order, which the petitioner are praying for review, has been upheld by the Hon'ble High Court and the others prayers not admissible at this stage.



## Order

7. Having heard the parties to the litigation, and after giving due consideration to the documents as well as data on record, submissions made by the parties, this Authority, hereby orders as under:

The Petitions under Case No. 15/2019 and 16/2019 cannot be admitted and thus stands disposed off.

Delivered on April 01, 2024.

Sd/-

(Adv. Dr. Sadhana S. Mahashabde)  
Member (Law)


Sd/-

(CA. Shwetal A. Thakare)  
Member (Economics)

Sd/-

(Dr. Sanjay Chahande)  
Chairperson



  
SECRETARY  
MAHARASHTRA WATER RESOURCES  
REGULATORY AUTHORITY  
World Trade Centre-1, 9th Floor,  
Cuffe Parade, Mumbai-400 005.