



सत्यमेव जयते



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

Maharashtra Water Resources Regulatory Authority

Order No. 16/2018

In The Matter of

Petition filed by Shri. Shankar A. Nagre & Shri. Satish. G. Joshi through
Adv. Yashodeep Deshmukh in the matter of not transferring water for Non-
Irrigation reservation from Gangapur & Darna Complex which supplies
water to NM Express Canal - Case No.5 of 2018

1. Shankar S/o, Anand Nagre,
R/o. Plot No.1/G/N-4, Datta Niwas,
CIDCO, Aurangabad.
2. Satish S/o, Govindrao Joshi,
R/o. Flat No.9, Hansraj Complex,
Nageshwarwadi, Aurangabad.

....Petitioners

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai-400032
2. Godavari Marathwada Irrigation Development Corporation,
Through its Executive Director,
Sinchan Bhavan, Jalna Road, Aurangabad.
3. Konkan Irrigation Development Corporation,
Through its Executive Director,
Sinchan Bhavan, Kopri Colony, Thane (East),
Thane-400603.

.....Respondents



Interim Order

Coram: Shri. V. M. Kulkarni, Presiding Member (WRE)

Shri. Vinod J. Tiwari, Member (Law)

Dr. S.T. Sangle, Member (Economics)

Date : November 2, 2018

Shri. Shankar A. Nagre & Shri. Satish. G. Joshi through Adv. Yashodeep Deshmukh filed a petition on June 07, 2018 seeking relief in the matter of not transferring water for Non-Irrigation reservation from Gangapur & Darna Complex which supplies water to NM Express Canal.

1. The prayers in the Petition in substance, are :

- a. The Government of Maharashtra and or Chief Engineer, North Maharashtra Region, Nashik may not kindly be allowed to transfer the water for Non-irrigation reservation from Gangapur and Darna complexes to the group of four dams constructed for supplying water through Nandur Madhmeshwar Express Canal for drought prone area of Vaijapur and Gangapur talukas of Marathawada Region
- b. No reservation may be entertained directly or indirectly on four dams as the water of 317.00 Million Cubic Meter ("MCM" for short) is to be made available at canal head of Nandur Madhmeshwar weir.
- c. The Government of Maharashtra or any other functionary agency be restrained from reserving any quantum of water for Non-Irrigation use from the four dams under Nandur Madhmeshwar Canal Project to Nashik city, Shahapur and adjoining villages or any other city / area outside the Gangapur and Vaijapur talukas of Aurangabad District.
- d. The efforts are also required to review the reservation of water given to Shahapur area for 97 villages with suitable alternative of other dams in Konkan region.



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण
Maharashtra Water Resources Regulatory Authority

9th & 11th Floor, Centre-1, World Trade Centre, Cuffe Parade, Mumbai-400005.

The Second hearing was held on October 31, 2018 to which following were present:

- 1) Shri. S. A. Nagre — Petitioner
- 2) Adv. Vaidehi Deshmukh — Advocate for Petitioner
- 3) Shri. A. A. Kapole — SE & DS, WRD, Mumbai for Respondent 1
- 4) Shri. Y. B. Patil — EE, Bhatsa Dam Division, Bhatsanagar for Respondent 3
- 5) Shri. R. S. Pandav — SDE, Bhatsa Dam Division, Bhatsanagar for Respondent 3
- 6) Shri. A. H. Shaikh — Sectional Engineer, NID, Nashik for Respondent 2
- 7) Adv. Shakuntala Wadekar — Advocate for Respondent No. 1 & 3

2. Documents Submitted:

- a) The Advocate for the Respondent No. 1 and 3 submitted the Vakalatnama & the Affidavit in reply.
- b) Sectional Engineer, NID, Nashik has submitted the Affidavit in Reply on behalf of Respondent No. 2.

3. Pleadings by Parties:

3.1 Adv. Shakuntala Wadekar for Respondent No. 1 and 3 submitted that the Maharashtra Jeevan Pradhikaran ("MJP" for short) has identified the source, as such MJP, Thane to be party along with the Chief Executive Officer, Zilla Parishad, Thane in this matter as the original documents submitted to the Authority belongs to MJP or Zilla Parishad, Thane.

3.2 Shri. A. A. Kapole, Deputy Secretary on behalf of Respondent No. 1 submitted that the decision to give 12.69 MCM of water from Bhavali dam to drinking water supply scheme for 97 villages in Shahapur Taluka has been given by the Competent Authority i.e. by Cabinet Sub-Committee. He further informed that GR for such sanction is issued on March 23, 2018. He further submitted that Bhavali dam is part of Nandur-Madhmeshwar project, comprising of four dams having aggregate live storage of 379.51 MCM. Domestic water reservation given



through Nandur-Madhmeshwar project is 50.59 MCM, which is 13.33%. Thus, the reservations given are within Sectoral Allocation of 15%.

3.3 During the proceeding, Shri. Kapole admitted the following facts;

- i) The G.R. of Sectoral Allocation is silent about whether to apply stipulated percentage to live storage or design utilisation. However, he promised to issue necessary clarification in this regard.
- ii) The Zilla Parishad, Thane, has made the selection of source for water supply scheme under consideration and he is not aware of fact whether any alternative studies were done or otherwise before selection of source.
- iii) There exist no policy guidelines for granting reservations for non-irrigation water use.
- iv) In this particular proposal, the water is being diverted from normal basin to abundant basin.

3.4 Shri. Y. B. Patil, Executive Engineer, Bhatsa Dam Division, Bhatsanagar confirmed that water can also be supplied by gravity to most of villages from Upper Vaitarna & Middle Vaitarna reservoirs. Water from Bhatsa and some other minor dams can also be supplied to few villages by gravity. He emphasized necessity of joint study with MJP for possibility of alternative sources in Ulhas basin.

3.5 Shri. Nagre, Petitioner pressed for the stay on water supply scheme pending alternative study and appropriate decision in this Petition.

4. Observations of the Authority:

- a) Authority has noted that the water reservation for drinking water supply scheme of 97 villages in Shahapur taluka from Bhavali dam is given by the Competent Authority.
- b) However, the Authority has observed from documents on record that source selection and identification is done by the Zilla Parishad, Thane without considering its consequences and without alternative study.



- c) The Executive Engineer, Rural Water Supply Division, Zilla Parishad, Thane vide its letter dated May 30, 2016 has certified that the Bhavali dam in Igatpuri district is the only alternative. The Authority would like to verify the alternative study done before this certification.
- d) The Shahpur Taluka is in Ulhas basin, which is categorized as abundant basin. As per the ISWP, water availability in Ulhas basin per ha of CCA is about 10 times that of Upper Godavari sub-basin in which Bhavali dam is located. In this particular case, diversion of water from normal basin to abundant basin is being proposed. At the same time, as per the provision in ISWP, the State Government is parallelly planning to transfer huge quantum of water from Ulhas basin to Upper Godavari sub-basin to meet out its deficit. The transferring of water from normal basin to abundant basin looks very unusual.

5. Directions:

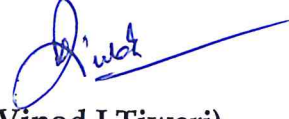
- a) The Chief Executive Officer, Zilla Parishad, Thane to be made party in the matter. The Petitioner should serve copy of the same.
- b) The alternative study done before finalizing the source shall be submitted with the recommendations of Respondent No. 1 & 3 and if such study is not done, it shall be done jointly by MJP and Respondent No. 3 and outcome shall be submitted by respondent No. 1 after scrutiny and its comments.
- c) The Respondent No. 3 shall file a detailed reply on affidavit why he is unable to give water to this drinking water supply scheme from existing ongoing proposed reservations in the basin in spite of the fact that the basin is abundant.
- d) In order to have integrated water resources planning & transparency of decision and to avoid arbitrary decisions, the State Government shall prepare policy guidelines for granting non-irrigation reservations within 2 months which shall cover relevant aspects such as selection of source after alternative study, the authority for source



finalization, inter-basin transfers, swapping of already sanctioned reservations from one project to another project, review and cancellation of reservation in case of breach of conditions, restoration charges for loss of irrigation potential etc.



(Dr. S.T. Sangle)
Member (Economics)

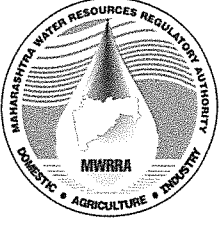


(Vinod J. Tiwari)
Member (Law)



(V.M. Kulkarni)
Presiding Member (WRE)





महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण Maharashtra Water Resources Regulatory Authority

CORRIGENDUM

IN

ORDER NO. 16 OF 2018

In The Matter of
Petition filed by Shri. Shankar A. Nagre & Shri. Satish. G. Joshi through
Adv. Yashodeep Deshmukh in the matter of not transferring water for Non-
Irrigation reservation from Gangapur & Darna Complex which supplies
water to NM Express Canal - Case No.5 of 2018

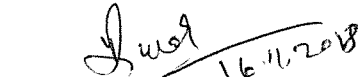
Coram: Shri. V. M. Kulkarni, Presiding Member (WRE)
Shri. Vinod J. Tiwari, Member (Law)
Dr. S.T. Sangle, Member (Economics)

Date November 16, 2018

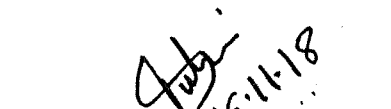
Read "from completed, ongoing and proposed projects" instead of "from
existing ongoing proposed reservations" in Sub-Para 'c' of 'Para 5. Directions'
of MWRRRA's Order No. 16 of 2018 issued on November 2, 2018;


16/11/18

(Dr. S.T. Sangle)
Member (Economics)


16.11.2018
(Vinod J. Tiwari)
Member (Law)




16.11.18
(V.M. Kulkarni)
Presiding Member (WRE)