



महाराष्ट्र जलसंपत्ती नियामन प्राधिकरण Maharashtra Water Resources Regulatory Authority (MWRRA)

9th Floor, Centre-1, World Trade Centre, Cuffe Parade, Mumbai - 400005. Tel.: 2215 2019 Fax.: 2215 3765 E-mail: mwrwa@mwrwa.org

Clarifications

In the matter of Order dated 19-9-2014 in Case No. 1 of 2014
And in the matter of Supply of Water to Jayakwadi Reservoir from
Upstream Reservoirs towards Equitable Distribution of Water in the
Godavari sub-basin

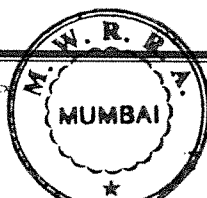
The Executive Director,
Godavari Marathwada Irrigation
Development Corporation,
Sinchan Bhavan, Jalna Road,
Aurangabad - 431 005

.... Applicant

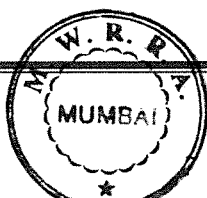
Vs.

1. Shri Prashant Bansilal Bumb (MLA),
Plot No. 3-B, Chabada Building,
Opposite Gurudwara, Sindhi Colony,
Jalna Road, Aurangabad - 431 005
Through his Advocate Mangal Bhandari
Veena Taikalwadi. L J Road, Mahim, Mumbai - 400 016.
2. The Principal Secretary (WRM & CAD),
Water Resources Department,
Madam Kama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai - 400032
3. The Sanjivani (Takali) Sahakari Sakhar Karkhana Ltd at Sahjanand
Nagar through Advocate Pramod N. Patil, 8-B, 2nd Floor, 35
Ambalal Doshi Marg, Opp.Hamam House, Fort, Mumbai - 400 023

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4. Sanjay Daulatrao Hon through Advocate Pramod N. Patil, 8-B, 2nd Floor, 35 Ambalal Doshi Marg, Opp.Hamam House, Fort, Mumbai - 400 023.
5. i) Vishwasrao S/o Laxman Aher ii) Balasaheb S/o Devram Ghumre iii) Karbhari S/o Pandharinath Jadhav, through Advocate Shri. Kamlesh P. Mali, C/o.Shri Ranjit A. Thorat, 102, Rehman House, Nadirshah Sukhia Street, Behind Mahesh Lunch Home, Fort, Mumbai - 400 001
6. i) Machindra S/o Tukaram Rohmare ii) Kakasaheb S/o Raibhan Jawale iii) Karbhari S/o Maruti Agwan iv) Balasaheb S/o Appasaheb Barhate v) Sachin S/o Ramrao Rohmare through Advocate Shri. Kamlesh P. Mali C/o.Shri Ranjit A. Thorat 102, Rehman House, Nadirshah Sukhia Street, Behind Mahesh Lunch Home, Fort, Mumbai - 400 001
7. Dashrath Vithoba Pise through Advocate Umesh D. Latmale, A. N. Complex, Statue Karmavir Chowk, Ward No. 1, Behind Ram Zerox, Shrirampur - 413 709, Tal - Shrirampur, Dist - Ahmednagar
8. Bhausahab Vitthal Dound through Advocate Umesh D. Latmale, A. N. Complex, Statue Karmavir Chowk, Ward No. 1, Behind Ram Zerox, Shrirampur, Pin- 413 709, Tal - Shrirampur, Dist - Ahmednagar
9. Ashok Sahakari Sakhar Karkhana Ltd through Advocate Umesh D. Latmale, A. N. Complex, Statue Karmavir Chowk, Behind Ram Zerox, Shrirampur, Ward No. 1, Pin - 413709, Tal-Shrirampur, Dist. - Ahmednagar
10. Shri. Y. R. Jadhav, Ramayan, Visawanagar, Nanded - 431602,
11. Godavari Kalave Pani Bachav Sangharsh Samiti, C/o Rajendra Bhimaji Bavake, At Post- Sakuri, Tal-Rahata, Dist. - Ahmednagar, - 423-107



12. Shri.Abhijit Durgadasrao (Joshi) Dhanorkar, R/o. Krushisarathi Colony, Basmat Road, Parbhani.
13. The Executive Director, Padamshree Dr. Vitthalrao Vikhe Patil Sahakari Sakhar Kharkhana Limited, R/o. Pravaranagar - 413 712, Tal. Rahata, Dist. Ahmednagar (Ph. No. 02422-252301)
14. Comrade Rajan Kshirsagar, Communist Party of India, Sangharsh, Behind Tahasil Office, University Road, Parbhani-431 401.
15. Harishchandra Sahakari Pani Puravatha Sansthanche Sahakari Federation Ltd, Amrutnagar, Post. Sangamner S.K. - 422 068.

.... Respondents

ORDER

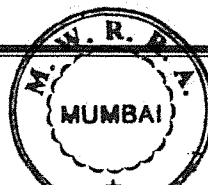
CORAM : Smt. CHITKALA ZUTSHI, ACTING CHAIRPERSON
Shri. S.V.SODAL, MEMBER

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Date: ...11.2014

The Maharashtra Water Resources Regulatory Authority (hereinafter referred to as the "Authority" or the "MWRRA") had in Case No. 1 of 2014 passed an Order on 19.9.2014 in the matter of release of water into the Jayakwadi reservoir from upstream reservoirs for the equitable distribution of water in the Godavari sub-basin.

Following the passing of the Order, and after a time gap of 39 days, the Executive Director, Godavari Marathwada Irrigation Development Corporation (GMIDC), sent a fax message dated

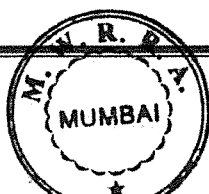
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27.10.2014 to the Authority seeking clarifications regarding certain issues contained in the said Order dated 19.9.2014. Considering the importance of the matter for the people of the region and in the interest of speedy implementation of the order, the Authority decided to examine each issue raised by the ED, GMIDC and as per the observations made by the Hon. High Court in its order of 31.10.2014. It was further decided that each issue would be discussed in the presence of all the parties involved in the Case No. 1 of 2014. It was noted however, that the issues raised by the ED, GMIDC would be clarified purely as a matter of administrative procedure and administrative convenience.

Therefore, all the parties were called to the Office of the MWRRRA in Mumbai on 11.11.2014 at 3.00 p.m. The fax dt. 27.10.2014 of the ED, GMIDC had been sent out in advance that is on 3.11.2014 to all the parties involved in the case, that is, the Petitioners, Ceaveators and the Interveners.

At the outset, the purpose of holding this hearing was made clear to all present. It was stated by the Chairperson that since the ED, GMIDC had asked for clarifications, and since the Hon'ble High Court in its Order dated 31.10.2014 had clearly stated that "*We also note that the statement being made by the Learned Government Pleader that Maharashtra Water Resources Regulatory Authority, Respondent No. 7 herein, has already been moved for certain clarifications. We make it clear that pendency of this petition does not prevent Respondent No.7 from giving such clarification as it may consider appropriate*". Therefore, it had been decided to clarify the issues in the presence of all. Adv. Shri. Mali and Adv. R.L. Kute, appearing for Caveators No. 3 & 4, represented that no review application had been filed before the MWRRRA by any party. Therefore the present procedure was flawed. The Authority made it



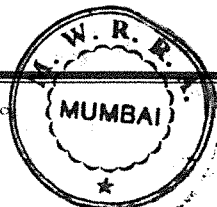
clear once again that the present procedure being followed to give clarifications was purely of an administrative nature.

The points on which clarifications had been sought by the ED, GMIDC were taken up.

During the point-wise discussion, it was stated by the Advocates Shri. Mali, Shri. Kute as well as Shri. Bhandari that in Para No. 10(a) of the Authority's Order, it is mentioned that "*We feel that the operating strategy should be chosen for regulating reservoirs by observing the storage position at Paithan dam in the first fortnight of October and also considering the storage position in the upstream complexes, duly accounting for planned Kharif use*". The Authority could not now modify this by saying that "the releases in the Kharif season in case of a project in question have to be limited in aggregate to the planned kharif use or actual kharif use whichever is less". This would amount to modifying the original Order of the Authority. This contention of the parties was accepted.

The ED, GMIDC, as well as Shi. Landge on behalf of Padmshree Dr.Vithalrao Vikhe Patil Sahakari Sakhar Kharkhana Ltd., wanted to know how hydrological drought would be determined. It was made amply clear to all the parties that the definition of hydrological drought was clearly given in Page No.52 of the Authority's Order. It was stated in the Order that "*hydrological drought is defined as a deficiency in surface and sub surface water supply leading to a lack of water for normal and specific needs (minimum drinking, food crop requirement, and minimum industrial use which creates employment)*". Such deficiency in surface and sub surface water is to be determined on the basis of storage position of water in the different reservoirs. The authority has relied on the report of the Godavari Study Group (GSG)


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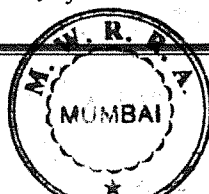
headed by Shri. Mendhegiri, Director General of Water and Land Management Institute (WALMI), Aurangabad.

Strategy No. III in table No. 6 of the GSG report read with the observed net inflow at Paithan corresponds to Sr. No. 3 in table No. 5 (Please see Page 53 and 54 of Order). It is clear from above that when the Paithan dam storage is below 65% of the planned live storage, the normal and specific needs of the population dependant on the dam will not be met. It will be clear from the above that when the storage at Paithan is 65% or more of designed live storage, both the needs, that is normal and specific, will be met. To meet the deficiency in the availability of water, equitable distribution has to be resorted to as per the procedure laid down in 10 (b) of the Order.

The representative of the Harishchandra Sahakari Pani Puravatha Sansthanche Sahakari Federation Ltd, Amrutnagar, Sangamner, wanted to know how the upstream reservoirs would be filled up in a year of hydrological drought. It was made clear to him that if the storage position in the upstream dams was insufficient to meet the requirement of people dependant on this dam, there would be no question of releasing water from these dams as per the definition of hydrological drought. This has been clarified on Page No. 56 of the Authority's Order vide Para No. 10(c).

The ED, GMIDC, has raised the issue of crop water requirement. He wanted to know whether the water requirement calculations were to be carried out prior to "Equitable Distribution" or after. It was clarified that this is to be done after "Equitable Distribution".

The ED, GMIDC as well as the upstream people in the command areas wanted to know how the K.T. weirs would be filled up if water was released to the Jayakwadi Dam. It was clarified that



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“Equitable Distribution” would have to be carried out first. The question of K.T.weirs would be addressed separately. This has been set out at Page No. 44 of the Authority’s Order.

Shri. Bhandari, Advocate for the Petitioner, wanted to know whether the guiding principle set out in the Order of the MWRRA would be reviewed in any subsequent Order. The Members of MWRRA pointed out that review would be as it was provided in the Order, at Para 10 (i) on Page No. 56 of the Authority’s Order.

The ED, GMIDC, suggested that instead of giving the responsibility to him for the operation of upstream reservoirs, he would like to suggest the setting of a Committee for taking the decision. It was made clear that the implementation of MWRRA’s Order is binding on the Government and on the River Basin Authority. The ED, GMIDC would be responsible for implementation of the same.

Regarding the unauthorized lifting of water from the reservoir, the Govt. and its officers should follow the provisions in the existing laws and should initiate criminal and legal action against wrong doing.

The details of each point with the clarifications given by the Authority are annexed to this Order.

Finally, this Authority strongly feels that the ED, GMIDC should have implemented the Order dt. 19.9.2014 of the MWRRA in the month of October itself and should not have waited until the very end of the month to make a reference to the Authority.

A period of more than 5 weeks has elapsed between the date of the Order of the MWRRA and the date of ED, GMIDC’s reference to


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the MWRRA. The Order of the Authority should have been implemented well within the time prescribed by the Authority.

The delay in making the reference to the MWRRA has resulted in delaying the justice to the petitioners seeking relief in the case.

With these observation and clarifications, this matter stands disposed of.

Sd/-

(Chitkala Zutshi)
Member (Economy)

Sd/-

(S.V. Sodal)
Member (Engineering)

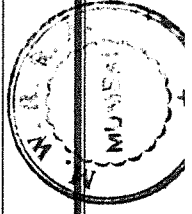


(Dr. Suresh Kulkarni)
Secretary

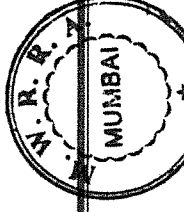


Details of clarifications sought and clarifications given by the Authority

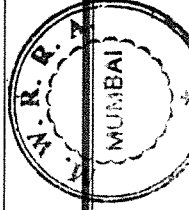
Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
(a)	<p>The upper reservoirs need to be regulated as per the above guiding principles after taking a review of the storage position in upstream complexes and in the Paithan dam and also after taking into account the likely effect of the return rainfall. This needs to be done in the first fortnight of October so that an approximate equitable distribution of available water among upstream and downstream users is achieved by the end of October. We feel that the operating strategy should be chosen for regulating reservoirs by observing the storage position at Paithan dam in the first fortnight of October and also considering the storage position in the upstream complexes, duly accounting for planned Kharif use.</p>	<p>Return Rainfall : How much rainfall will occur in return monsoon is unpredictable. Sometimes there is very less or no rainfall. Therefore it is difficult to assess the effect of probable return rainfall . Some clarity is required . (2) Planned Kharif Use : It is mentioned that regulation of upstream reservoirs is to be done duly accounting for PLANNED Kharif use. We feel that, the wording should be ACTUAL KHARIF USE.</p>	<p>It is expected from the senior engineers of the Water Management Wing of the WRD to remain in liaison with the IMD so as to be aware of the status and movement of the return rainfall at a particular reservoir site. It is made clear in Point 10 (a) that this action is to be undertaken in the first fortnight of October. The releases in kharif season in case of a project in question have to be limited in aggregate to the planned kharif use. In no case the limit be exceeded.</p>

Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
(b)	<p>An approximate equitable distribution is to be resorted to when hydrological drought occurs. This is to be achieved through a step-by-step synchronization of storages in the upper reservoirs upto Strategy-III as given in Table 6 (enclosed) provided that requirement of Strategy-I is first met fully for all upper complexes of reservoirs. If sufficient storage is available in the upstream reservoirs, then Strategy-II will come into play & likewise Strategy-III. While doing so uniform cut (say, 5% /10% /15% as the case may be) in the utilizable water of all upstream storages shall be applied to meet the requirement of storage of the lower reservoir for the chosen strategy which is in consonance with the principle of "Sharing Distress by All". Water is to be made available in all the reservoirs for meeting the drinking water requirement, for the growing of</p>	<p>(1)Hydrological drought : It is stated that equitable distribution is resorted to when hydrological drought occurs. In this regard clarification is required on: 1) How to determine hydrological drought and what are the criteria for doing it? 2) Who will take decision or declare hydrological drought? 3) Is it location- specific and time- specific? It is difficult to assess drought in whole of the catchment area. (2) K.T. weir needses : It is stated that gates are to be placed in K. T. weir after equitable distribution is achieved by October end. However, it is the practice to lower the gates at September end so that storage is built up till 15th of October. Most of the times there will not be any flow</p>	<p>(1)(i) Please refer Line No.8 to 13 of Page 52 of the Order for the definition of Hydrological Drought. Refer also clarification given on Page 5 of this Order. Refer Page 55 of the Order (Line 14 to 16). We feel that the operating strategy should be chosen for regulating reservoirs by observing the storage position at Paithan Dam in the first fortnight of October ... Please refer Line No.20 to 23 on Page 54 which indicates the minimum needs in respective selected strategy. Please refer Table 5 & 6 mentioned on Page 53 & 54 of the Order This will point out which strategy is to be selected in the beginning.</p>



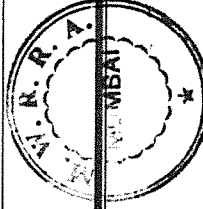
Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
	<p>bare minimum food crop for people in the command areas of all the projects and for minimum of industrial use (but limited to 80% of the industrial requirement) so as to prevent the migration of population. K.T.weir needles which obstruct the flow of water should not be placed in position until an equitable distribution is achieved by October end.</p>	<p>after 15th of Oct. Hence there will not be any storage if gates are placed at the end of October. Clarification is required. (3) It is mentioned that uniform cut of 5% to 15% etc. is to be applied to upstream reservoirs. This point needs to be clarified so that there will not be any confusion.</p>	<p>(1)(ii) Please refer Para 10(i) on Page 56 according to which the Executive Director is entrusted to discharge this responsibility. (1)(iii) It is clear from the definition of Hydrological Drought that it is location-specific and time-specific as per Point 10(a). (2) Please refer Line No. 1 & 2 from the bottom on Page 44 which makes it amply clear that any action at project level (in the present case K.T.weir) has to be resorted to after the equitable distribution is made. (3) It is made amply clear vide Line No.20 to 23 on Page 54 of the Order.</p>
(c)	<p>If any reservoir on the upstream is short of water to meet its own minimum needs, no</p>	<p>How to determine the minimum water needs for irrigation is difficult. More</p>	<p>For Minimum water needs / demands refer Page 54 of the Order (Line 28 to 30).</p>



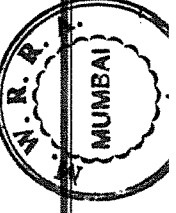
Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
	release of water from that reservoir is to be made.	clarification is required. Method of calculation needs to be specified. Should it be the crop-water requirement as specified in project report?	Also refer Table 5 & 6 mentioned on Page 53 of the Order If any complex of reservoir on the upstream side is short of water to meet its own minimum needs governed by the respective strategy to be adopted for reservoir operation, no release of water from that system will be allowed.
(d)	However, it must be ensured that there is no drawal of water from the dead storage for irrigation purposes from the Jayakwadi reservoir.	The canal irrigation can be controlled. However, it is difficult to control the backwater lifting. The electric supply needs to be disconnected. For this action from district collectors of Aurangabad and Ahmednagar is necessary.	Action should be taken as per the provisions of different relevant laws of the land
(e)	If the natural storage at Paithan dam in the first fortnight of October is above or equal to 65% of the live storage (Strategy-III) then the question of releasing water from the upstream	The basis for 65 % is not clear.	Please refer Point 10(b). The limit of 65% is as governed by the Strategy-III. In this respect please refer clarification given on page No. 6 of this Order.



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	storages does not arise.		
(f)	The water requirement for the crop is to be worked out scientifically with giving due consideration to overall groundwater conjunctive use taking into account the actual soil moisture condition.	<p>Water requirement calculations as directed are difficult to do because</p> <ol style="list-style-type: none"> 1. There are variety of crops and their growth stages are different 2. Conjunctive use is difficult to assess. <p>So also, soil moisture condition and its contribution for irrigation is difficult to calculate.</p> <p>Crop water requirement is normally worked out by Modified Penman method applied to approved cropping pattern in project report.</p>	It is expected that Sr. Engineers should know this basic aspect. Please see provision in project report for cropping pattern and work out the water requirement as per modified Penman method.
(g)	On the upstream projects in Nashik & Ahmednagar Districts, the diversion of monsoon flows through canals, flood canals, rivers and streams for Kharif use outside the project command, or for filling tanks and farm ponds is to be allowed only after the Paithan	<p>Use of flood water can be stopped at most places, but there are a few projects which are designed for carrying flood discharge. Jayakwadi project gets fully filled up about only once in 4 years as is evident from history. Therefore, such</p>	Please refer Point 10(g) on page 56 of the Order. The direction in this point is very clear.

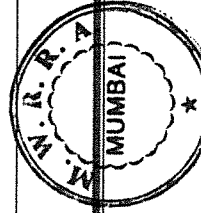


Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
	reservoir reaches its full design capacity.	approved projects where flood discharges are accounted for will get redundant for 3 out of 4 years. And they are not useful. It is difficult to maintain.....	
(h)	During the period of floods, the normal reservoir operation will switch over to flood regulation.	No comments.	--
(i)	These guiding principles will be reviewed each year and a report thereon made to MWRRRA.	It is stated that guiding principles will be reviewed each year but it is not clarified by whom , or how to review?	Please refer Point 10(j). The ED has to take review of guiding principles. His experience during the implementation of the equitable distribution in form of feedback will have to be conveyed to the MWRRRA. Suitable refinement on the required issues may be incorporated in further order.
(j)	The Executive Director of the GMIDC will be responsible for the operation of all upstream	Instead of giving full responsibility to ED for operation of all upstream reservoirs, it is	Implementation of MWRRRA order is binding on the Government and



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Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
	reservoirs as per the operating strategy stated above.	<p>suggested to have an independent authority like that authority specified for Babhali barrage operation. The reasons are:</p> <ol style="list-style-type: none"> 1. To have impartial decision 2. To insulate the decision making and implementation from political influence .(Since E.D. is working under Water Resources Minister) 3. To avoid ilikely influence of geographic location of E.D., GMIDC 4. The E.D., GMIDC is responsible to follow instructions of the Minister (W R), Govt. of Maharashtra <p>Therefore, it is suggested to have an independent comittee as below:</p> <ol style="list-style-type: none"> 1. Chief Engineer from central govt or CWC , Director or NWA, Chairman 2. CE, NMR - Member 3. CE, WR, Aurangabad - Member 	<p>ultimately on the RBA.</p> <p>No clarifications on this point is considered necessary.</p>



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Sr. No	Point No 10	Comments of E.D.(GMIDC)	Explanation by MWRRRA
(k)	The role of the canal advisory committee will begin at the project level after the reservoir operation has been completed.	No comments	--
(l)	The question of the authorized "block" holders has to be addressed at the project level only after the completion of the reservoir operation.	No comments	--
(v)	The lifting of water from the backwaters of any project has to be limited to the approved water use planning. Government has to exercise rigorous controls on the unauthorized pumping on Jayakwadi backwater. Action taken to be reported to MWRRRA.	Government has to take policy decision. To control the backwater lifting, the separate dedicated electric line is necessary along the periphery of backwater.	This is within the purview of the Govt. The E.D. has to get this implemented. Action on unauthorized lifting has to be taken as per the provisions of different relevant laws of the land.