

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

Maharashtra Water Resources Regulatory Authority

No. MWRRRA /2018/Legal/Case No. 13(2018) /733

Date : 17/10/2018

In the Matter of
Suo-Moto Petition in the matter of relaxing water use norms by reserving water with 135 lpcd norm from Nilwande project to combined water supply scheme of Shri. Saibaba Sansthan Vishwastha Vyavstha Shirdi, Shirdi Nagarpanchayat & Kopargaon City - Case No. 13 of 2018

Please find herewith a copy of MWRRRA Order No. 15/2018 dated 17/10/2018 in the above matter.

Encl : As above



(Dr. Suresh Kulkarni)

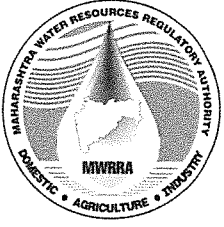
Secretary

Copy for information and necessary action to:

1. Chief Executive Officer, Shri Saibaba Sansthan Vishwastha Vyavstha, Tal. Rahata, Dist. Ahmednagar - 423109 (Petitioner)
2. Member Secretary, Maharashtra Jeevan Pradhikaran (MJP), Express Towers, 4th Floor, Nariman Point, Mumbai 400 021 (Respondent No 1).
3. Executive Director, Godavari Marathwada Irrigation Development Corporation, 1st floor, Sinchan Bhavan, Jalna Road, Aurangabad-431 005 (Respondent No 2).
4. Chief Officer, Shirdi, Nagar Panchayat, Shirdi, Tal. Rahata, Dist. Ahmednagar-423109 (Respondent No 3).
5. Chief Officer, Kopargaon Nagar Palika, Kopargaon Dist. Ahmednagar - 423601 (Respondent No 4).
6. Shri. Dnyandev Ghorpade, Ex-Sarpanch, Grampanchayat Pimpri Nirmal, Tal. Rahata, Dist. Ahmednagar through Adv. Siddharth Karpe, C-11, Cosmos Trade Center, Khatao Building, Near BSE, Fort, Mumbai - 400001.



सत्यमेव जयते



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण Maharashtra Water Resources Regulatory Authority

ORDER NO. 15 /2018

In the Matter of

Suo-Moto Petition in the matter of relaxing water use norms by reserving water with 135 lpcd norm from Nilwande project to combined water supply scheme of Shri. Saibaba Sansthan Vishwastha Vyavstha Shirdi, Shirdi Nagarpanchayat & Kopargaon City - Case No. 13 of 2018

Shri Saibaba Sansthan VishwasthaVyavstha, Shirdi
Tal. Rahata, Dist. Ahmednagar - 423109
Through its Chief Executive Officer

.....Petitioner

----Vs-----

1. Member Secretary,
Maharashtra Jeevan Pradhikaran (MJP),
Express Towers, 4thFloor, Nariman Point, Mumbai 400 021
2. Executive Director,
Godavari Marathwada Irrigation Development Corporation,
1st floor, Sinchan Bhavan, Jalna Road, Aurangabad-431005.
3. Chief Officer,
Nagarpanchayat, Shirdi,
Tal.Rahata, Dist. Ahmednagar- 423109.
4. Chief Officer,
Kopargaon Nagarpalika,
Kopargaon Dist. Ahmednagar - 423601

.....Respondents



Coram : Shri. Vinod J. Tiwari, Chairperson & Member (Law)
Shri. V. M. Kulkarni, Member (WR.Engg.)
Dr. S. T. Sangle, Member (Economics)

Date : October 17, 2018

BACKGROUND

1. The Petitioner - Shri. Saibaba Sansthan Vishwastha Vyavstha, Shirdi through its Chief Executive Officer vide its representation dated September 3, 2018 has requested this Authority to relax water use norms prescribed by this Authority considering the huge impact of floating population on the town and allow 135 lpcd supply level for which the combined water supply scheme is being planned and proposed for Shri. Saibaba Sansthan Vishwastha Vyavstha, Shirdi, Shirdi Nagarpanchayat & Kopargaon Nagarpalika areas.
2. This Authority having considered the gravity and urgency in the interest of floating population as well as ultimate impact on the water supply needs as pointed out by the Petitioner through its instant representation thought it necessary to take suo-moto cognizance in order to address the difficulties being faced and accordingly issued notices to the Respondents aired hereinabove by exercising the powers under Regulation 11 of the MWRRA Conduct of Business Regulations, 2013 read with the powers under the Clause No.12 of the MWRRA Criteria Order dated September 22, 2017 in the larger public interest.
3. The gist of contents of the Petition as submitted by the Petitioner are as under :
 - (i) The Government of Maharashtra through Law & Judiciary Department ("L&JD" for short), vide Government Resolution ("GR" for short) dated September 1, 2017 has given Administrative Approval to additional water supply scheme for Shirdi Sansthan through lifting water from Nilwande Dam.
 - (ii) Shri Shirdi Devsthan, being an international pilgrimage center, thousands of devotees use to visit during the festivals and others times.



As it is small Nagarpanchayat, it cannot accommodate such huge crowd, so most of devotees stay in make shift arrangements as well as nearby city viz. Kopargaon. Due to this, there is lot of stress on local administration to provide water supply and other facilities.

- (iii) Thus, in order to cater the needs of domestic water demands, Government has accorded administrative approval to the proposed Water Supply Scheme and accordingly, Chief Engineer, Maharashtra Jeevan Pradhikaran ("MJP" for short) has been entrusted with the job of preparation of detailed project report as well as technical consultancy for the combined water supply scheme of Shri Saibaba Sansthan Vishwastha Vyavstha Shirdi, Shirdi Nagarpanchayat & Kopargaon City considering water demands of the areas including peak season demands during the festival period.
- (iv) Subsequently, the State Govt. through L&JD vide GR dated February 7, 2018 has amended and extended the scope of above water supply scheme by including Shirdi Nagarpanchayat & Kopargaon Nagarpalika's water demand, considering ongoing as well as future impact of the floating population. The GR along with other conditions also states that the work order for the scheme should not be given unless necessary certificates viz. lifting source, water availability, water quality etc. are obtained.
- (v) The proposed combined water supply scheme has been planned considering Nilwande project as source of water from which and water to be transported efficiently through pipeline. Presently, these local bodies are getting water from Darana project through its canals. Darana dam project is under huge stress as domestic water reservations on it are 45% and hence, the technical consultant - MJP find it prudent to plan the water source from Nilwande project.
- (vi) The norms, determined by this Authority's Criteria Order dated September 22, 2017, does not have norms for Floating Population, Hotels, Schools and Collages etc. Thus, norm published by Central Public Health and Environmental Engineering Organisation ("CPHEEO" for short) was considered i.e. 135 lpcd. Therefore, total water demand comes out for above three entities with Nilwande project as source is 16.64 Million Cubic Meter ("MCM" for short).



(vii) Hence, it was submitted and prayed to relax the norm determined by this Authority's Order dated September 22, 2017 for Domestic Water Supply accordingly.

4. The Authority having considered the representation of the Petitioner called upon all such relevant information, details and particulars along with documents & records from the Petitioner and the Respondent No. 1 to 4. The Authority scheduled a hearing on September 28, 2018 at 12:00 Noon.

FACTUAL MATRIX

5. The Petitioner - Chief Executive Officer on behalf of Shri. Saibaba Sansthan Vishwastha Vyavstha, Shirdi, requested to consider the impact of floating population and to review and relax the norm determined by this Authority's Order dated September 22, 2017 for Domestic Water Supply. The State Government vide said G.R. has given administrative Approval to above combined water supply scheme costing Rs. 260.38 Crores to be borne by the Petitioner trust for Shri. Saibaba Sansthan Shirdi, Shirdi Nagarpanchayat and Kopargaon Nagarpalika by considering Nilwande Dam as source of Water. The MJP has prepared the Detailed Project Report of the above water supply scheme considering the water source of Nilwande project.
6. The State Government had earlier given administrative approval to water supply scheme for Shri. Saibaba Sansthan Shirdi vide G.R. dated September 1, 2017 costing Rs. 191.91 Crores by considering Nilwande Dam as the source of water. Subsequently, the State Government has extended the scope of this water supply scheme to accommodate the area of Shirdi Nagarpanchayat and Kopargaon Nagarpalika considering the increasing stress on these local bodies due to large number of visiting devotees for the Devasthan at Shirdi and accordingly issued the fresh G.R. dated February 7, 2018 giving an administrative approval to combined water supply scheme.
7. The management committee of the Trust controlling the affairs of Shri. Saibaba Sansthan Shirdi, under the control of Law and Judiciary Department of Government of Maharashtra, is going to bear the entire cost of this integrated / composite water supply scheme. As pointed out the management committee had approached Aurangabad Bench of Hon'ble High Court of Bombay with Writ Petition No. 12346/2014 seeking permission for



expenditure for this scheme. The Hon'ble High Court vide orders dated July 15, 2016 directed to give technical sanction to the scheme within 4 weeks and administrative approval within next two weeks. Accordingly, necessary sanctions to the scheme seem to have been given.

8. The MJP, Regional Division, Nashik is the project management consultant for the scheme and has prepared the plans and estimates of the said scheme. The Shri. Saibaba Sansthan Shirdi, Shirdi Nagarpanchayat and Kopargaon Nagarpalika are outside the command area of Nilwande dam and are presently getting water supply through open canal from Darana dam.
9. As per the provision in the Detailed Project report of the drinking water scheme under consideration, the annual water requirements considered for Shri. Saibaba Sansthan Shirdi, Shirdi Nagarpanchayat and Kopargaon Nagarpalika are 9.01 MCM, 3.89 MCM and 4.92 MCM respectively. The aggregate demand is 17.82 MCM.
10. Thus, including earlier granted water reservation of 13.15 MCM of Nilwande dam, the total drinking water reservation will be 30.97 MCM (9.5%).
11. It appears from the report of the Respondent No. 4, attached to the Petition as Annexure 4, that the peak period water demand considered for the design of the scheme considering the floating population.
12. The drinking water reservations on Darana Dam, as per the information given during hearing by the representative of the Water Resources Department are 45%. This is much in excess of the sectoral allocation of 15% for the drinking water use. Thus, the Darana system is under severe stress.

THE PROCEEDINGS BEFORE THE AUTHORITY

13. Hearing was conducted by this Authority on September 28, 2018 and ample opportunity of hearing has been granted to all the parties. This hearing was attended by the following in person;



1. Smt. Rubal Agrawal (IAS) ... Petitioner
2. Shri. N. V. Kulkarni ... Executive Engineer, MJP, Sangamner for Respondent No. 1
3. Smt. Sangita Jagtap ... Executive Engineer, UPD, Sangamner



- for Respondent No. 2
4. Shri. P. L. Gujar ... Junior Engineer, Shirdi Nagar Panchayat for Respondent No. 3
 5. Shri. S. B. Norode ... Junior Engineer, Kopargaon Nagar Palika for Respondent No. 4
 6. Shri. MilindBhangre ... AE - II, MJP Kopargaon Sub-division for Respondent No. 1
 7. Adv. SiddharthKarpe ... Advocate for Intervener
 8. Adv. R. P. Pulate ... For Intervener

14. During the hearing, an Application for Intervention for and on behalf of Grampanchayat Pimpri Nirmal, Tal. Rahata, Dist. Ahmednagar was came to be moved by one Shri. Dnyandev Ghorpade through Adv. Siddharth Karpe. The Authority observed that since, the Authority has taken the matter as a Sou-Moto & under the Clause No.12 of the Authority's Criteria Order dated September 22, 2017, in order to remove the difficulties pointed out by the Petitioner, the Intervener's application is not maintainable. As no prejudice is likely to be caused to the intervener or any other entity or person, the Authority found it prudent not to entertain the intervention application and accordingly, disposed of the same without warranting to take any cognizance thereof. Moreover, the said intervener has already filed a separate petition in Case No. 7/2018 which has been heard by this Authority. The grievances in Case No. 7/2018 and this intervention application are identical. This Authority has heard the said petition of the intervener and passed the Order on October 15, 2018.

15. As directed by the Authority, the Petitioner has submitted the Detailed Project Report of the combined water supply scheme of Shri. Saibaba Sansthan Shirdi, Shirdi Nagarpanchayat and Kopargaon Nagarpalika alongwith other information vide letter dated September 27, 2018.

16. In order to understand and appreciate the issues involved in the matter, the Authority during hearing raised some queries to the Petitioner & the Respondents and accordingly directed all concerned to file a Notorised Affidavit within 8 days to the questions as follows;



For Petitioner

- 1) What is the present and floating population?
- 2) What is the basis for estimate of 5.072 Mcum for Shirdi Sansathan?

For Respondent No 1

- 1) What is the basis for considering 135 lpcd norm estimation?
- 2) Are you aware of Criteria determined by this Authority for Domestic Bulk Water Supply issued on September 22, 2017?
- 3) Is it not applicable to MJP?
- 4) Whether CPHEEO norm are for design purpose & or supply purpose?
- 5) Whether CPHEEO has considered supply side constraints?
- 6) Whether CPHEEO has considered any norms based on basin specific water availability?
- 7) Is there any norm proposed by CPHEEO for floating population?

For Respondent No 2

What will be the impact on water planning due to relaxing norms for the Petitioner as prayed?

For Respondent No 3

- 1) What is the present & floating population of Shirdi Nagarpanchayat?
- 2) What is the basis for estimate of 5.173 Mcum for Shirdi Nagarpanchayat?

For Respondent No 4

- 1) What is the present & floating population of Kopargaon Nagarparishad?
- 2) What is the basis for estimate of 6.395 Mcum for Kopargaon Nagarparishad?

17. As per the directions of this Authority, the Petitioner as well as Respondent No. 3 & 4 have submitted all relevant details and the arithmetic calculations



duly supported by the affidavit. However, Respondent No.1 & 2 failed to submit any detail in spite of clear directions of this Authority. The Authority having analyzed the information as well as data submitted by the Petitioner as well as Respondent No. 3& 4 proceeded to appreciate, determine and decide the Petition, on the conclusion that the Respondent No. 1&2 nothing to add or say anything in the matter and accordingly, this Authority proceeded to decide the issue in order to remove the difficulties in the interest of larger public.

IMPORTANT RELEVANT PROVISIONS IN PREVAILING ACTS, POLICIES AND GOVERNMENT RESOLUTIONS AS REGARDS TO DRINKING WATER SUPPLY

18. Relevant Provisions in the Criteria Determined by this Authority for Distribution of Entitlements by RBA for Domestic and Industrial Uses.

MWRRRA Act, 2005 in its Section of 11 (a) confers the function on MWRRRA to decide criteria for distribution of water entitlements by the river basin agencies. Accordingly, this Authority has determined the Criteria for Distribution of Surface Water Entitlements by River Basin agencies for Domestic and Industrial Uses on September 22, 2017. The relevant provisions in these Criteria are :

“6. CRITERIA FOR DOMESTIC WATER USE :

6.1 *The applicable per capita norms for entitlement to DBWU shall be as under.*

Table No 1

Sr. No.	Category	Norm (lpcd)
(1)	(2)	(3)
1	Rural Water Supply Schemes	55
2	Peri-urban Area	70*
3	Municipal Councils	
	3a) C - Class	70*
	3b) B - Class	100*
	3c) A - Class	125*
4	Municipal corporations (having population less than 50 lakh)	135*



Sr. No.	Category	Norm (lpcd)
(1)	(2)	(3)
5	Metropolitan centers (having population equal to or more than 50 lakh)	150*

** Note 1: Urban population (in Category 2 to 5) where water is provided with public stand post, norm shall be restricted to 55 lpcd for such population clusters & in areas where water is provided with piped water supply but without sewage system, norm shall be restricted to 70 lpcd.*

Note 2: Norms mentioned in column No. 3 are maximum water supply levels. DBWUs at Sr. No. 2 to 5 shall strive to reduce their demand of freshwater by conjunctive use of water that can be made available by rainwater harvesting and recycling.

Note 3: Norms are exclusive of UFW. Entitlements for the first year shall include UFW limited to 15 % over and above the quantity arrived with prescribed norms. This limit of UFW shall be reduced by 1 percent per year during subsequent years of the control period (2nd& 3rd).

Note 4: Norms are inclusive of commercial, institutional and minor industry requirements. However, for billing RBAs shall charge DBWU separately for such portion of water supply with applicable rates.

6.2. The RBAs shall observe the following conditions while distributing the entitlements.

(i) The entitlement shall be given from the reservoir. DBWUs shall lay pipelines from the reservoir up to the water treatment plant to avoid transit losses.

(vii) Any new entitlement to municipal councils, municipal corporations and metropolitan cities shall be given only after ensuring that DBWUs have concurrent plans for construction of sewage treatment along with water supply schemes."



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Maharashtra Water Resources Regulatory Authority

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

19. Relevant Provisions in Manual on Water Supply and Treatment

Ministry of Urban Development, New Delhi in May 1999 has published manual on Water Supply & Treatment. The said manual recommends per capita water supply levels for designing water supply schemes as under;

Sr. No.	Classification of Towns / Cities	Recommended Maximum Water Supply Levels (lpcd)
2	Cities provided with piped water supply where sewerage system is existing /contemplated	135

20. Technical Guidelines for Floating Population

The MJP vide letter dated December 18, 2015 has circulated the water supply norms for floating population as follows;

7(b) Floating population shall be got certified by Chief Officer / Deputy Commissioner. However, rate of supply shall be as follows;

- (i) Bathing facilities provided : 45 lpcd
- (ii) Bathing facilities not provided : 25 lpcd

21. Considering the grievance and difficulties raised in the representation submitted by the Petitioner, the Authority found it prudent to appreciate that the norms pertaining to impact of floating population need to be given due consideration as well as the assessment as far as the requirement of water is concerned need to be fixed and accordingly, framed following issues :

22. As per the information brought on record as well as the data and the affidavit submitted by the concerned parties, it is the matter of fact that the Shirdi Devsthan as well as Shirdi Nagarpanchayat has its waste water/sewage treatment plants but Kopargaon Nagarpalika at present do not have such sewage treatment facilities at Kopargaon. Moreover, at present they are getting water supply from open canal and not through piped distribution network. The projected population as well as floating population considered



for the purpose of detailed project report for the proposed combined water supply scheme has been submitted by the Respondent No. 3 & 4 which need to be considered by the Water Resources Department and the Authorities of River Basin Agencies for the purpose of determination of water entitlement / release of water quota on the basis of said figures as well as the norms fixed by this Authority vide its Criteria Order dated September 22, 2017 read with present Order or as may be determined from time to time.

23. FRAMING OF ISSUES:

This Authority having considered the nature of the case, the contentions made in the submissions of the parties, the documents placed on record as well as data submitted, following issues are arises for consideration:

- A) Whether it is necessary to determine and fix the norms for considering the domestic water supply needs of the floating population?
- B) Whether the norms fixed through the Criteria Order dated September 22, 2017 need to be relaxed as demanded by the Petitioner?
- C) Whether the water supply scheme needs to be designed considering the fixed as well as peak floating population?

FINDINGS OF THE AUTHORITY

24. Findings of this Authority on the above issues are as under:

- A) Whether it is necessary to determine and fix the norms for considering the domestic water supply needs of the floating population?

In the Criteria Order issued by this Authority on September 22, 2017, there is no provision to cater for water supply demand of the floating population. This Authority is of view that standard norms for considering water supply demands of floating population needs to be determined.



Thus, the answer to the question is in affirmative.

Now, in order to determine the norms for the floating population, this Authority found it prudent to rely upon the norms as determined by MJP which are mentioned in Paragraph 20 which will be applicable for residential as well as non-residential floating population.

B) Whether the norms fixed through the Criteria Order dated September 22, 2017 need to be relaxed as demanded by the Petitioner?

The Shirdi Sansthan and Shirdi Nagarpanchayat have both piped distribution system as well as piped sewage system and treatment plant of 16 MLD. However, Kopargaon Nagarpalika has piped water distribution but do not have sewage treatment plant. Hence, the Authority is of considered opinion that water supply norm for Shirdi Sansthan and Shirdi Nagarpanchayat needs to be relaxed to 135 lpcd subjected to the condition that they should treat all the sewage they generate, reuse to a maximum extent and make available the balanced treated water for irrigation

Hence, the answer to the issue is partly in the affirmative.

C) Whether the water supply scheme needs to be designed considering the fixed as well as peak floating population?

As far as the aspect of design of such water supply schemes where there is huge impact of floating population, this Authority is of considered view that for the purpose of the design of the water supply scheme, technical consultant dealing with the aspect of detailed project report of such schemes may take in to the account the impact of the peak floating population and futuristic demands of 30 years. However, for the purpose of assessment of water reservation / entitlement, RBA should take into the account the average annual floating population in addition to the fixed population of such places.

Thus, the issue is answered in the affirmative.



25. FINAL ORDER / DIRECTIONS :

Having heard the parties involved in the litigation, perusing documents as well as data on record, submissions made by the parties and having answered the issues as above, this Authority hereby directs as under:

a) The norms for the floating population water shall be as under :

i) Bathing facilities provide : 45 lpcd

ii) Bathing facilities not provide : 25 lpcd

Note 1 : the floating population shall be certified by Chief Officer / Deputy Commissioner.

Note 2 : Where split up of floating population for which bathing facilities are provided and floating population for which bathing facilities not provided is not available, average norm i.e. 35 lpcd shall be adopted.

b) As the Shirdi Sansthan and Shirdi Nagarpanchayat has both piped water distribution system, sewage system and 16 MLD sewage treatment plant, the supply norm for Shirdi Sansthan and Shirdi Nagarpanchayat are hereby relaxed to 135 lpcd, subjected to condition that they will treat entire sewage they generate, reuse the treated water to maximum extent and make available balance treated water for irrigation. Supply norms for Kopergaon Nagarpalika shall be as per the Criteria determined by this Authority on September 22, 2017.

c) The planning of proposed combined water supply scheme of Shirdi Devasthan, Shirdi Nagarpanchayat and Kopergaon Nagarpalika may be prepared and finalized considering the norms determined and fixed for floating population as well as the norms already determined for fixed population and considering the futuristic needs of 30 years.

d) The River Basin Agency and its prescribed Authorities of Water Resources Department while determining the reservation / entitlement shall consider the fixed as well as the floating population and strictly follow the norms determined and fixed by this Authority vide its Criteria Order dated September 22, 2017, read with the present Order as far as the fixation of norms for the floating population.



- e) In light of the norms now fixed for floating population category, the Secretariat of this Authority is further directed to issue corrigendum / addendum in the said Criteria Order dated September 22, 2017 for the category of said floating population so that all concerned to take the same into the account.

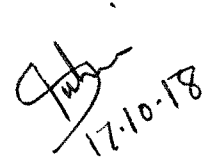
The Petition is accordingly disposed.

In the facts & circumstances, there shall not be any direction as to the costs

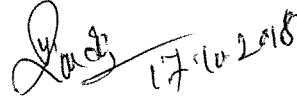
Delivered on October 17, 2018.



(S. T. Sangle)
Member (Economics)



(V. M. Kulkarni)
Member (WR Engineering)



(Vinod. J. Tiwari)
Chairperson & Member (Law)

