

Before the



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

Maharashtra Water Resources Regulatory Authority

(MWRRA)

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

Case No. 2 of 2013

Sub : Application No. 2 of 2013 before MWRRA regarding direction sought to release 1.74 TMC water from Kukadi Project and upstream K. T. weirs to the Ghod Project & representation under the provisions of MWRRA Act, 2005 for enabling the required quantity of water to be stored in Ghod storage

- 1) Shri Baburao Kashinath Pacharne.....Petitioner No.1
- 2) Shri Raosaheb Dada Pawar
Ghodganga Sahakari Sakhar Karkhana Ltd.
Navare, Tal. Shirur, Dist. Pune.....Petitioner No.2
- 3) Shri Shivajirao Narayanrao Nagvade,
Founding Chairman,
The Shrigonda S. S. Karkhana Ltd.
Post: Shrigonda Factory, Tal. Shrigonda,
Dist. AhmednagarPetitioner No.3
- 4) Shri Baburao Kashinath Pacharne & others.....Petitioner No. 4

Versus

The Principal Secretary (WRM & CAD),
Water Resources Department,
Madam Kama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai - 400032.....Respondent

PRESENT :

Adv. S. R. Nargolkar, for Petitioner 1

Adv. Suresh Palande, for Petitioners 1 & 3



Adv. J. V. Khurjekar for Petitioner 2

Adv. Minakshi Sakhare for Petitioner 4

Smt. Malini Shankar, Principal Secretary (WRM, CAD), Water Resources
Department, Mantralaya, Mumbai for Respondent alongwith others

Shri C.A. Birajdar, Chief Engineer (SP), MKVDC, Water Resources Department,
Pune

Shri. K. B. Kulkarni, Supertending Engineer & Administrator (CADA), Pune

Shri. Shivaji Bolbhat , Executive Engineer , Kukadi Irrigation Division No. 1,
Narayangaon

Shri Rajendrakumar Jadhav, Deputy Collector for Collector, Pune

Shri. S. C. Nikam, Executive Engineer, representing Collector, Ahmednagar

Prof. Ram Shinde, MLA, Karjat-Jamkhed, Dist. Ahmednagar

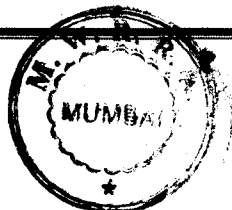
**CORAM: RAVI B. BUDHIRAJA, CHAIRMAN &
CHITKALA ZUTSHI, MEMBER (ECONOMY),**

DATE: 24th MAY 2013

ORDER

The Hon'be High Court of Judicature, Mumbai in its order dated 10th May 2013 directed Maharashtra Water Resources Regulatory Authority (MWRRA) in the matter of WP 4489 of 2013 and 4518 of 2013 as follows :-

"It is for the Maharashtra Water Resources Regulatory Authority constituted under the Maharashtra Water Resources Regulatory Authority Act, 2005 to pass appropriate orders for allocation of water, but as already held by this Court in the Judgment dated 1/2 March 2013 in Writ Petition No. 757 of 2011 (Society for Backlog Removal & Development and others vs The State of Maharashtra and



others) and other connected matters, the Water Policy of the State Government as contained in the circular dated 18 May 2011 provides that allocation of water for drinking purpose is to get priority over allocation for irrigation purposes.”

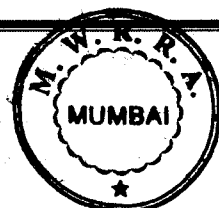
2.0 Accordingly the MWRRA issued notices to Petitioner 1, 2 and 3 on 8 May 2013 and to Petitioner 4 on 13 May 2013.

3.0 The hearing on the above matter was kept on 18 May at 12: 00 hrs & 21 May 2013 at 15:00 hrs.

4.0 The proceedings of the said hearing in brief are as under:

4.1 Adv. Nargolkar for Petitioner 1 pleaded his case invoking Sections 11 (c), 12(6), 12(7) and 12(10) of Maharashtra Water Resources Regulatory Authority (MWRRA) Act and prayed that the Hon'ble Authority issue appropriate direction to the respondent to release 1.74 TMC of water from Kukadi project to Ghod project as per the principle of equitable distribution, considering the precarious position of the availability of water at Ghod project. He also pointed out that Petitioner has made an application on 22/4/2013 to Collector, Pune & Chief Engineer, Superintending Engineer & Executive Engineer of Water Resources Department, Pune. Further if above demand is not fulfilled people from the area will have no option but to migrate elsewhere in order to meet their requirement of drinking water. However, no action has been taken on their demand .

4.2 Adv. Palande for Petitioners 1 & 3 pleaded his case stating that the priority set in the State Water Policy is first for drinking purposes which must be met as per the Principle of equitable distribution. Therefore water be let out from Kukadi Complex for Ghod Dam in order to meet the requirement of adversely affected area around Shirur, Inamgaon, Dhanegaon, Tandali & also for the cattle camp. He emphasized that even today water available in Kukadi complex is being used for irrigation in upstream portion. No action has been taken by the Collector on the representation given by the Petitioner on 22/4/2013. He also pointed out that there are 65 K.T. weirs upstream of



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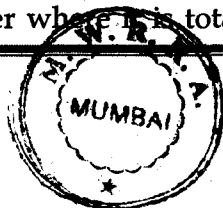
the Shirur / Ghod projects which even today are full of water and water from these K.T. weirs is being lifted by the farmers for irrigation. However, people and cattle around Shirur, Inamgaon, Dhanegaon, Tandali are suffering from shortage of water even for drinking purposes.

- 4.3 Adv. J. V. Khurjekar for Petitioner 2 pleaded that along the portion of Ghod river beyond Shirur there has been absolute scarcity of water and river bed is completely dry. As a result there is acute scarcity of drinking water for humans as well as well as for livestock. The Ghodganga S.S. Karkhana has temporarily constructed a cattle camp at Inamgaon where there are about 12000 cattle. Karkhana is supplying water & fodder to them. Water has to be purchased for meeting the requirement of the cattle camp. However portion of the river upstream of the Shirur, where there are 65 K.T. weirs between Kukadi complex to Shirur has ample water being used by farmers for irrigation. He supported his argument by latest photographs dated 20/5/2013 of the Paragaon Mangarul & Renawadi K.T. weirs which were seen to have sufficient water. Petitioner has prayed suitable directions be given to the Respondant for opening the gates of the K.T. weirs so that sufficient water could flow downstream into the Ghod storage. He also pleaded that Principle of "tail to head" be observed under Section 12 (7) of the Act. Managing Director, Ghodganga S.S.Karkhana, Shirur has also submitted a list of the 16 villges on the banks of Ghod river which are facing acute shortage of drinking water but not catered to by the Collector.
- 4.4 Shri Rajendra Nagavade also pleaded for Petitioner No. 3 stating that there are about 19 villages in the command of Ghod project in Shrigondha taluka, which are facing an acute shortage of drinking water. Suitable arrangements be made to make water available in Ghod dam which could then be released into the Ghod canal.
- 4.5 Shri Birajadar CE, K. B. Kulkarni, SE & Shivaji Bolbhat, EE of the Kukadi presented a chart showing storage position of projects in Kukadi complex and Ghod as on 13/5/2013 as also reservation of water upto 15/7/2013



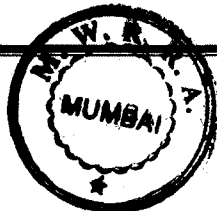
which is annexed to this order (Annexure-I). It was also mentioned that live storage at Ghod dam on 15/10/2012 was 1.429 TMC which amounts to 26 % of Ghod storage. 1 TMC of water was released from Dimbhe dam of Kukadi complex as per the records. Actual availability of live storage in Ghod project as on 21/10/2012 was 38 % of live storage. Therefore, there was no water scarcity or distress so as to attract the provisions of MWRRRA Act. It was also submitted that during the meetings of Canal Advisory committee held on 6/11/2012 and 6/3/2013, water from Kukadi complex was reserved for drinking water purposes for the villages in Ahmednager, Pune districts and Karmala taluka of Solapur district. The total commitment for this is 6.822 TMC and it was decided to release it in two hot weather rotations. First hot weather drinking water rotation (release) was in March 2013 and second is due in month of May 2013. The officers mentioned that the arrangement for taking out water from dead storage exists only at the Pimpalgaon Joge of Kukadi complex. It was also mentioned by these officers that available water in the Kukadi complex is planned to be used in 3rd week of May 2013, as per the directions of the Collector to fill various tanks along Kukadi left bank canal in Pune, Ahmednagar districts and Karmala taluka of Solapur district exclusively for drinking water purposes. Further the remaining water in the Kukadi complex as of 13/5/2013 is planned to be used exclusively for drinking and not for irrigation. The balance water in the 65 K.T. weirs below Kukadi dams upto Shirur is also reserved by Collector, Pune for drinking. It was also categorically stated that if water is diverted from 2nd drinking water rotation (release) which is due in last week of May from Kukadi left bank canal to areas as requested by Petitioner it will adversely affect the drinking water programme as planned earlier by the Collector.

- 4.6 Adv. for Petitioners replied that area around Shirur which they pointed out to Collector in their representation on 22/4/2013 was not considered in the drinking water programme framed by the Collector. These villages are on the bank of Ghod river where it is totally dry and villagers are not getting



water for drinking purposes. They requested to release water from outlet no. 73 of Kukadi left bank canal in the natural *doha* (storage in river bed depression) in the Ghod river which has a capacity of 100 mcft. Further they requested to release atleast 50 mcft of water during the 2nd drinking water rotation from Kukadi left blank canal. Further Shri Nagavade requested to release additional 50 mcft for villages in Shrigondha taluka. Advocates were directed by the Authority to furnish the list of villages in support of their requests.

- 4.7 Prof. Ram Shinde, MLA from Karjat-Jamkhed, Dist. Ahmednagar stated that Collector has already planned 2nd drinking water rotation in the 3rd week of May to meet their requirement for the seriously drought affected villages. He requested that this programme of drinking water rotation should not be changed as that area will suffer heavily for want of water.
- 4.8 Shri Nikam, Executive Engineer, representing Collector, Ahmednagar submitted written statement dated 20/5/2013, copies of which were also given to parties. He also mentioned that villages which had demanded water were already being provided through tankers. Not a single village out of this was deprived of drinking water.
- 4.9 Shri Rajendrakuma Jadhav, Dy. Collector representing Collector, Pune had given written submission on 21/5/2013, copies of which were given to parties. He categorically mentioned that villages which have demanded water were already being provided drinking water through tankers. He also mentioned that various electric pumps which used for irrigation have been seized as per the orders of Collector, Pune. MAHADISCOM also reported on 20/5/2013 that action for enforcing load shedding and disconnecting the power of agricultural pumps has been already taken.
- 5.0 In the light of the above we are of the view that the following aspects need consideration:



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5.1 In the present matter, the prayer of the petitioner has been made under Section 11 (c), 12(6), 12(7), 12 (10) of the Maharashtra Water Resources Regulatory Authority Act (MWRRA) as stated by him in para 3 of his petition.

Sections 11(c) and 12 (6)(c), 12(7), 12 (10)of the MWRRA Act read as follows:-

Section 11(c):

"11. The Authority shall exercise the following powers and perform the following functions, namely:-

....

(c)To determine the priority of equitable distribution of water available at the water resources project, sub-basin and river basin levels during periods of scarcity;

Section 12(6) (c):

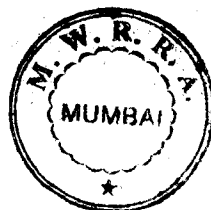
"(6) The Authority shall fix the Quota at basin level, sub-basin level or project level on the basis of the following principles:-

(c): In order to share the distress in the river basin of sub-basin equitably, the water stored in the reservoirs in the basin or sub-basin, as the case may be, shall be controlled by the end of October every year in such way that, the percentage of utilizable water, including kharif use, shall, for all reservoirs approximately be the same;

Section 12 (7) The Authority shall ensure that the principle of "tail to head" irrigation is implemented by the river basin agency.

Section 12 (10)(a) The Authority shall strive to make the water available to the drought prone areas of the State.

The term Entitlement has been defined under Section 2(i) of the Act as follows:



- (i) *Entitlement means any authorization by any River Basin Agency to use the water for the purposes of this Act*

Section 12(6) of the Act states that the Authority shall fix the quota at the project level, sub basin level on the basis of certain principles of which 12 (6) (c) is one. Quota has been defined under Section 2 (i) (s) as the volumetric quantity of water made available to an entitlement holder

However, the MWRRRA Act of 2005, was amended in 2011. The new the Section 31A was added, effecting the irrigation Entitlements. The Sec. 31A reads as follows:-

31A: Notwithstanding anything contained in this Act or any other law for the time being in force, the term "Entitlement" shall apply only to such areas where compliance of all relevant provisions including delineation under the Maharashtra Management of Irrigation Systems by Farmers Act, 2005 is made.

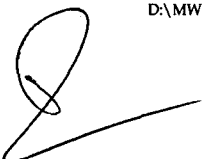
- 5.2 Sec. 12(6)(c) which may apply only for the equalization of reservoirs for irrigation Entitlements, is applicable in the present case to the Ghod Project as this project has been delineated by the Govt. under Sections 5 & 6 of the Maharashtra Management of Irrigation Systems by Farmers Act, 2005.

As the live storage at the Ghod reservoir on 15/10/2012 was 26 % which is less than 33%, this case falls under the definition of scarcity as per Rule 2 and attracts provision under Section 11 (c) & 12 (6) (c). Hence, the Authority has direct jurisdiction in the present case.

However Respondents have released 1 TMC of water from Dimbhe dam of Kukadi complex making actual availability of live storage in Ghod project as on 21/10/2012 as 38 % but the percentage of utilizable water, including kharif use, has not been made approximately the same as in the Kukadi complex as provided under Section 12 (6) (c) of Act by end of October 2012.



- 5.3 Collector, Pune has reserved water for drinking water purposes from Kukadi complex for villages in Ahamadnagar & Pune districts & Karmala taluka in Solapur district. The total requirement for this is 6.822 TMC and Water Resources Department officials have planned to release this water in two hot weather rotations vide para 4.5 above. The Collector has stated in the written statement dated 21/5/2013 that villages which had demanded water were already being provided drinking water through tankers vide para 4.9 above. The Collector, Ahmadnagar has submitted written statement dated 20/5/2013 mentioning therein that villages which had demanded water were being provided drinking water through tankers vide para 4.8 above. The balance water in 65 K.T. weirs below Kukadi dams upto Shirur is also reserved by the Collector, Pune for drinking vide para 4.5 above. Looking to the availability of water as on 13/5/2013 in the Kukadi complex, it is clear that there is no balance water available after provisions have been made for drinking water, for the period upto 15/7/2013.
- 5.4 It was argued that as per the principle of 'tail to head', the storage in downstream projects be ensured prior to the storage being filled in the upstream projects. However, we are of the view that the "tail to head" principle applies to irrigation within the command area of each project, which is a totally controlled distribution system for supply of irrigation water and not dependant on nature. However this can not be applied to the filling up of reservoirs in a basin or a sub-basin because of the variable hydrologic and geographical conditions which are dependant on nature. For example in a large catchment area the lower reservoirs, may fill up earlier than the upstream ones. This has been experienced earlier in the Bhima sub-basin and some other sub-basins of the State. Thus, we are unable to accept this contention.
- 5.5 Presently looking at the availability of water as on 13/5/2013 in the Kukadi complex, it is clear that there is no balance water available for making approximate equalization of reservoirs as per Section 12 (6) (c).



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5.6 In view of the above observations and analysis, the following directions are hereby given:

(a) This Authority feels that proper integrated planning, as per para 2.1.1 of the State Water Policy needs to be done at the appropriate time as required under the MWRRA Act. In order to ensure, this Government may review the storage position in all water resources projects as on the 15 October this year and inform the Authority of the position by the 31 October 2013. Areas likely to face distress may be identified. Also the steps proposed to be taken by Govt. in the matter may be communicated to this Authority by the 31 October 2013.

(b) Hot weather rotation for drinking due in May 2013 be started immediately as planned with following inclusion:

- i) About 10 (9.5 to 10.5) mcft water be released through outlet no 73 of Kukdi left bank canal into the Ghod river for meeting the emergent drinking requirement of villages Hingni, Tardobachiwadi, Golegaon, Danewadi, Kolhewadi, Rajapur, Matha, Karade, Nimone, Motewadi, Langhwadi, Chavanwadi.
- ii) In view of the larger distance to be traversed, about 15 (14.5 to 15.5) mcft water be released from Arondali / Pimpalgaon pisa escape into Hanga river which can be stored on K.T. weirs at Shirsgaonkata, Inamgaon & Tandali for meeting the drinking water requirement of Pimpalsuti, Inamgaon & Tandali.

With these findings and observations, the Petitions stand disposed of.

-Sd-

(Chitkala Zutshi)
Member (Economy)

-Sd-

(Ravi B. Budhiraja)
Chairman

(S.V. Sodal)
Secretary



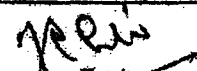
Command Area Development Authority, Pune

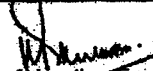
Information given as per MWRRA's letter No. MWRRA/Petition/Case No 2 of 2013 /290 Dt. 8/5/2013

Fig in TMC

Sr.No.	Name of Dam	Projected Storages			Storages as on 13 th May 2013			Reservations upto 15 th July 2013					Storages remain beyond 15 th July 2013			Remarks
		Live	Dead	Total	Live	Dead	Total	Evaporation	Drinking	Industrial	Irrigation	Total	Live	Dead	Total	
1	2	5	4	3	8	7	8	9	10	11	12	13	14	15	16	17
1	Kukadi Complex															
	1 Pimpalgaon Joge	3.890	4.420	8.310	0.000	3.459	3.459	0.519	2.416	0.000	0.000	2.935	0.000	0.524	0.524	These dead storages will not be drawn except Pimpalgaon Joge Dam
	2 Manikdoh	10.174	0.700	10.874	0.209	0.700	0.909	0.031	0.178	0.000	0.000	0.209	0.000	0.700	0.700	
	3 Yedgaon	2.800	0.500	3.300	0.234	0.500	0.734	0.035	0.194	0.005	0.000	0.234	0.000	0.500	0.500	
	4 Wadaj	1.169	0.099	1.268	0.110	0.099	0.209	0.017	0.093	0.000	0.000	0.110	0.000	0.099	0.099	
	5 Dimbhe	12.483	1.000	13.483	0.469	1.000	1.469	0.070	0.399	0.000	0.000	0.469	0.000	1.000	1.000	
	Total	30.516	6.719	37.235	1.022	5.758	6.780	0.672	3.280	0.005	0.000	3.957	0.000	2.823	2.823	
2	Ghod	5.467	2.172	7.639	0.000	0.570	0.570	0.189	0.015	0.030	0.000	0.234	0.000	0.336	0.336	
	Total	35.983	8.891	44.874	1.022	6.328	7.350	0.861	3.295	0.035	0.000	4.191	0.000	3.159	3.159	


Executive Engineer
Kukadi Irrigation Division No.1
Narayangaon


Executive Engineer
Kukadi Irrigation Division No.2
Shingonda


Superintending Engineer & Administrator
Command Area Development Authority
Pune-11

