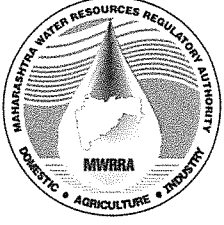




सत्यमेव जयते



# महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

## Maharashtra Water Resources Regulatory Authority

No. MWRRRA /2018/Legal/Case No. 7(2018) /732

Date : 17/10/2018

**In the Matter arising out of the  
Petition filed by Grampanchayat Pimpri Nirmal, Taluka Rahata, District  
Ahmednagar through Shri. Dnyandev Ghorpade in the matter of grievance of the  
water reservation from Nilwande Dam to the Kopargaon Nagarpalika in the  
domestic water supply scheme for Shirdi Devsthan -  
Case No. 7 of 2018**

Please find herewith a copy of MWRRRA Order No. 14/2018 dated 15/10/2018 in the above matter.

Encl : As above

(Dr. Suresh Kulkarni)

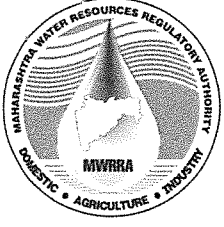
Secretary

**Copy for information and necessary action to:**

1. *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 (Petitioner)
2. Principal Secretary, Law & Judiciary Department, Mantralaya, Mumbai - 400032 (Respondent No 1).
3. Principal Secretary, Water Supply & Sanitation Department, Mantralaya, Mumbai - 400 032 (Respondent No 2).
4. Chief Executive Officer, Shri Saibaba Sansthan Vishwastha Vyavstha, Tal. Rahata, Dist. Ahmednagar - 423109 (Respondent No 3).
5. Executive Director, Godavari Marathwada Irrigation Development Corporation, 1<sup>st</sup> floor, Sinchan Bhavan, Jalna Road, Aurangabad-431 005 (Respondent No 4).
6. Chief Engineer, Maharashtra Jeevan Pradhikaran, ISP Road, Opp. Nasik Revenue Commissioner Office, Nasik Road, Nasik 422101 (Respondent No 5).



सत्यमेव जयते



# महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण Maharashtra Water Resources Regulatory Authority

ORDER NO. 14/2018

In the Matter arising out of the  
Petition filed by Grampanchayat Pimpri Nirmal, Taluka Rahata, District  
Ahmednagar through Shri. Dnyandev Ghorpade in the matter of grievance  
of the water reservation from Nilwande Dam to the Kopargaon Nagarpalika  
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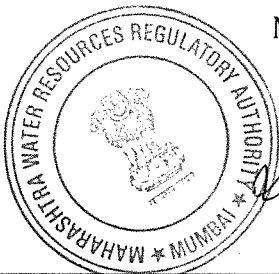
Grampanchayat Pimpri Nirmal,  
Taluka Rahata, District Ahmednagar  
Through Shri. Dnyandev Ghorpade

....Petitioner

----Vs-----

1. Principal Secretary,  
Law & Judiciary Department,  
Mantralaya, Mumbai - 400 032
2. Principal Secretary,  
Water Supply & Sanitation Department,  
Mantralaya, Mumbai - 400 032
3. Chief Executive Officer,  
Shri. Sai Sansthan Vishwastha Vyavstha, Shirdi
4. Executive Director,  
Godavari Marathwada Irrigation Development Corporation, Aurangabad.
5. Chief Engineer,  
Maharashtra Jeevan Pradhikaran, Nashik

....Respondents



**Coram: Shri. K. P. Bakshi, Chairman**  
**Shri. V. M. Kulkarni, Member (WR Engg.)**  
**Shri. Vinod J. Tiwari, Member (Law)**  
**Dr. S. T. Sangle, Member (Economics)**

**Date : October 15, 2018**

### **BACKGROUND**

1. The Petitioner for and on behalf of the Rural Local Body – Grampanchayat Pimpri Nirmal, Taluka Rahata District Ahmednagar having aggrieved by the act of the State Government by which the Kopargaon Nagarpalika and Shirdi Nagarparishad have been added to the earlier sanctioned drinking water supply scheme for Shri. Saibaba Sansthan, Shirdi from Nilwande dam vide G.R. dated September 1, 2017 approached Maharashtra Water Resources Regulatory Authority - this Authority (“Authority” for short) on June 29, 2018 in the matter of grievances.
  
2. The gist of contents of the Petition as alleged by the Petitioner is as under :
  - (i) That, the Petitioner Rural Local Body, being in the command area, is the beneficiary of the Nilwande Irrigation Project. The construction of Nilwande Dam was started in 1970 and although the dam is completed, works of canals are yet to be completed making the beneficiaries deprived of benefits of the Dam.
  
  - (ii) That, 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. Subsequently, the L&JD vide G.R. dated February 7, 2018 has amended the above GR and changed the scope of above water supply scheme by including Shirdi Nagarparishad & Kopargaon Nagarpalika’s water demand.
  
  - (iii) The Kopargaon Nagarpalika, which is in the command of Darana Project, has already been given water reservation from Darana dam. The reservation granted is 5.96 Million Cubic Meter (“MCM” for short). The entitlement of the Kopargaon Nagarpalika as per the norm determined by the Authority is 3.29 MCM. The actual use is also less



than the reservation. Thus, Kopargaon Nagarpalika has adequate water reservation from Darana dam. Thus the inclusion of Kopargaon Nagarpalika is unwarranted and sheer waste of money.

- (iv) The norm determined by the Authority has not been followed while estimating the water requirement of the Kopargaon Nagarpalika. Further, the water demand is inflated by considering excessive population.
- (v) The State Government has included the Kopargaon Nagarpalika in the Shirdi Sansthan water supply scheme ignoring the drinking water demands of 182 villages in the command of Nilwande dam.
- (vi) Inclusion of Kopargaon Nagarpalika in the proposed water supply scheme for the Shirdi Sansthan will deprive the beneficiaries of Nilwande Command from their water rights.

3. The Petitioner, therefore, prayed the Authority as under that :

- a) The Authority to direct the all concerned to follow the Criteria Order issued by the Authority while sanctioning the water reservations
- b) The Authority shall prohibit the State Government from granting domestic water supply reservations to water user entity who have already given adequate reservations from other.
- c) Specific directions and guidelines be issued in this matter as granting of domestic water supply reservations to beneficiaries of Darana Project from Nilwande Project, particularly when they already have adequate reservations in Darana Project, is injustice on the beneficiaries of Nilwande Project.
- d) Any other reliefs as this Authority deem it fit to be.

#### THE FACTUAL MATRIX

4. The Petitioner, on behalf of Grampanchayat Pimpri Nirmal, Tal. Rahata, District Ahmednagar, having aggrieved by the G.R. dated February 7, 2018 issued by Government of Maharashtra through L&JD, has approached this Authority. The State Government vide said G.R. has given administrative Approval to integrated / composite water supply scheme costing Rs. 260.38 Crores for Shri. Saibaba Sansthan Shirdi, Shirdi Nagarpanchayat &



Kopargaon Nagarpalika by considering Nilwande Dam as source of Water. The Maharashtra Jeevan Pradhikaran has prepared the Draft Project Report of the scheme without obtaining the prior drinking water reservations on Nilwande project from Water Resources Department.

5. 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 integrated/composite water supply scheme.
6. The management committee of the Trust controlling the affairs of Shri. Saibaba Sansthan at Shirdi, under the control of Law and Judiciary Department of Government of Maharashtra, is going to bear the cost of this integrated / composite water supply scheme. The management committee had approached Aurangabad Bench of High Court at Bombay with civil application 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.
7. Respondent No. 5, the project management consultant for the scheme has prepared the plans and estimates of the said scheme. However, the DPR seems to be prepared without obtaining letter of support / reservation of water from WRD.
8. The Petitioner Pimpri Nirmal Grampanchayat is in the command area of the Nilwande Dam whereas for Shri. Saibaba Sansthan Shirdi, Nagarpanchayat Shirdi and Nagarpalika Kopargaon are outside the command area of Nilwande dam and are presently getting water supply through open canal from Darana dam. However, it seems that the Petitioner has misconceived with the concept of command area which is to be considered for irrigation purpose only and not for drinking water supply.



9. As per the report of Respondent No. 4, Kopargaon Nagarpalika has already been given water reservation of 5.96 MCM from Darana dam through Godavari Right Bank Canal, which is adequate to meet its water demand of forecasted population in the year 2031 as per the per capita consumption norms determined by this Authority.
10. As per the records made available to this Authority, the State Government has not yet granted any water reservation to this integrated / composite water supply scheme. However, the Petitioner has expressed apprehension that if the reservations for domestic and industrial use are given to the users outside the command area of Nilwande project, it will be an injustice to the beneficiaries of the Nilwande project and thus approached this Authority with the present Petition seeking reliefs prayed thereunder.
11. It is brought to the notice of this Authority that Nilwande dam is in Ahmednagar district having 228.75 MCM of live storage and annual utilisation of 326.06 MCM. As per the project planning, entire water is planned for irrigation use only. As per the project report of Nilwande Project, the 68,878 ha of land from 182 villages of Ahmednagar and Nashik districts is expected to get irrigation benefits. The dam is completed but the canal system is not yet ready to supply water for irrigation. Thus, the present status is that the water is available in the dam but due to non availability of canal system, the water from this Nilwande dam is not adequately utilized. There is no provision for non-irrigation use in Project Planning done way back in 1970.
12. As per the provisions contended in Section 16 A of the MWRRA Act, 2005 as amended by the Act No. XXI of 2011, the State Government has been empowered to issue sectoral allocation for various water use sectors. The said provision reads as under :

*"16A. (1) Notwithstanding anything contained in section 11 or any other provisions of this Act or in any other law for the time being in force, the State Government shall determine the sectoral allocation:*

*Provided that, sectoral allocation so determined shall ordinarily be reviewed at such intervals of not less than three years:*

*Provided further that, after publication of the Maharashtra Water Resources Regulatory Authority (Amendment & Continuance) Act,*



*2011, in the Official Gazette, the State cabinet shall determine the sectoral allocation.*

*(2) After the sectoral allocation, as provided in sub-section (1) is determined, the Authority shall determine the criteria for the distribution of Entitlements under clause (a) of section 11."*

By virtue of above Statutory provision, the State Government is competent to determine even project specific sectoral allocation. Thus, State Government is empowered to decide sectoral allocation from particular project and can change it as situation demands.

13. It is the matter of facts that by exercising the said powers under the provisions of Section 16 A of the Act, the State Government vide G.R. dated November 17, 2016 has declared 15% sectoral allocation for drinking water from all completed, ongoing and future irrigation projects, apart from 75% for irrigation and rest 10% for industrial sector. As per the figures brought on record by the respondents, the existing status of drinking water reservations on the said Nilwande dam is 13.15 MCM which is to the extent of 4.03% of design water utilisation of the project, as against 15% permissible sectoral allocation for drinking water as authorized by State Government.
14. 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 & Kopargaon Nagarpalika are 9.01 MCM, 3.89 MCM and 4.92 MCM respectively. The aggregate demand is 17.82 MCM.
15. Thus, including earlier granted water reservation of 13.15 MCM of Nilwande dam, the total drinking water reservation will be 30.97 MCM which will be 9.5%.
16. It appears from the report of the Respondent No. 4, attached to the Petition as Annexure 4, that the water demand considered for the design of the scheme is far in excess as compared to prevailing norms determined by this Authority vide its order dated September 22, 2017.
17. The drinking water reservations, as per the information given during hearing by the representative of the Water Resources Department, already



sanctioned from Darana dam are 45% which are much in excess of the sectoral allocation of 15% for the drinking water use. Thus, it is the matter of fact that the drinking water reservation from the said Darana dam has already exceeded 15% sectoral allocation limit and the system is under severe stress.

### THE PROCEEDINGS BEFORE THE AUTHORITY

18. Hearing was conducted by this Authority on September 6, 2018 and ample opportunity of hearing has been granted to all the parties. This hearing was attended by the following in person;

- 1) Shri. D. N. Ghorpade — Petitioner
- 2) Adv. Siddharth Karpe — Advocate for Petitioner
- 3) Shri. U. N. Nirmal — Petitioner's side
- 4) Shri. P. R. Kharde — Petitioner's side
- 5) Smt. S. R. Jagtap — Executive Engineer, Upper Pravara Dam Division, Sagamner

19. Adv. Siddharth Karpe on behalf of Petitioner submitted that the said GR dated February 7, 2018 as issued by the L&JD is required to be withdrawn. The reason put forth by him was that the said GR has been issued by L&JD in supersession of its earlier GR dated September 1, 2017, so as to include Kopergaon Nagarpalika. The earlier GR was only limited for the water supply scheme for the devotees of Saibaba coming to Shirdi. The revision in the GR is uncalled for and is causing injustice on the beneficiaries of the Nilwande Project.

He further argued that the Criteria dated September 22, 2017 issued by this Authority has quite relevance in this case. The water demand worked out for the scheme is with the norm of 135 lpcd which is not in the line of the said Criteria. The Kopergaon Nagarpalika is already having reservation from the Darana Project. He expressed apprehension that other water use entities outside the command on Nilwande Project may also ask for reservation from Nilwande Project.





According to him, the Godavari Marathwada Irrigation Development Corporation, Aurangabad submitted the status of reservations for these water use entities vide its office letter dated June 13, 2018. The MJP has proposed 4.982 MCM water for Shirdi Sansthan considering forecasted population in the year 2031. The earlier sanctioned water reservations for Shirdi Sansthan and for Kopargaon Municipal Council from Darana Project are 1.51 MCM and about 5.96 MCM respectively. The additional demand of water over and above that already sanctioned is to be approved from the Darana Project only. The beneficiary farmers of Nilwande Project are determined to get it sanctioned.

He further submitted that the GR dated September 1, 2017 is issued for the limited purpose for providing water supply to "Mahasamadhi Shatabdi Mahotsav" at Shirdi. In fact, Shirdi gets water from Darana Right Bank Canal whereas Kopargaon Municipal Council receives water from Darana Left Bank Canal.

20. Mrs. S. R. Jagtap, Executive Engineer, Upper Pravara Dam Division, Sagamner stated that no proposal is received from Maharashtra Jeevan Pradhikaran for drinking schemes to villages in the command of Nilwande Dam. The Original proposal was costing Rs. 192 crore whereas latest estimated cost reaching to Rs. 296 crore to be borne by the Shirdi Sansthan. She further pointed out that by exercising the powers under the provisions of Section 16 A of the Act, the State Government vide G.R. dated November 17, 2016 has declared 15 % sectoral allocation for drinking water from every irrigation project, apart from 75% for irrigation and rest 10% for industrial sector. As per the existing status, drinking water reservations on the said Nilwande dam is to the extent of 13.15 MCM. However, the drinking water demand of villages in the command and in vicinity of Nilwande project is likely to come in future.
21. As per the information furnished by the Maharashtra Jeevan Pradhikaran, the gross water demand for the integrated / composite scheme is 17.82 MCM considering the population forecasted for the year 2048.



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

**22. Constitutional Provisions: Right to Water**

Right to water is not explicitly enshrined as a fundamental right in the Indian Constitution. However, Hon'ble Supreme Court of India have interpreted Article 21 of the Constitution, right to life, as encompassing the right to safe and sufficient water and sanitation.

In Narmada Bacho Andolan Vs Union of India [(2000) 9 SCC 571] the Hon'ble Supreme Court of India held that right to water is a fundamental right under Article 21 of the Constitution. Hon'ble Supreme Court further observed that water is the basic need for the survival of the human beings and is a part of the right to life and human rights under Article 21 of the Constitution.

**23. Relevant Provisions in the State Water Policy**

**Clause 4.0:**

Clause 4 of the State Water Policy, 2003 has laid down general principles for allocation of water resources. It has given top priority for domestic use for drinking, cooling, hygiene, and sanitation needs including livestock, followed by other priorities like irrigation being second and industrial sector being third.

**24. Relevant Provisions in MWRRA Act, 2005 and its subsequent amendments**

**Section 11(a) :**

*"to determine the criteria for the distribution of Entitlements by the River Basin Agencies, within each Category of Use, on such terms and conditions as may be prescribed, after sectoral allocation is made under section 16A;"*

**Section 11(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;"*



**Section 16A :**

*“(1) Notwithstanding anything contained in section 11 or any other provisions of this Act or in any other law for the time being in force, the State Government shall determine the sectoral allocation:*

*Provided that, sectoral allocation so determined shall ordinarily be reviewed at such intervals of not less than three years:*

*Provided further that, after publication of the Maharashtra Water Resources Regulatory Authority (Amendment & Continuance) Act, 2011, in the Official Gazette, the State cabinet shall determine the sectoral allocation.*

*(2) After the sectoral allocation, as provided in sub-section (1) is determined, the Authority shall determine the criteria for the distribution of Entitlements under clause (a) of section 11.”*

**25. Relevant Provisions in the Criteria Determined by MWRRA for Distribution of Entitlements by RBA for Domestic and Industrial Uses.**

MWRRA Act, 2005 in its Section of 11 (a) confers the function on MWRRA 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**

<b>Sr. No.</b>	<b>Category</b>	<b>Norm (lpcd)</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
3	Municipal Councils	
	3a) C - Class	70*
	3b) B - Class	100*
	3c) A - Class	125*



*\* 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 (2<sup>nd</sup>& 3<sup>rd</sup>).*

*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.
- (ii) .....
- (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. ”

**26. Government Resolution Dated November 17, 2016:**

- i. Vide G. R. dated November 17, 2016, the government has declared sectoral allocation of water for different water use sectors from completed, ongoing and future irrigation projects under provision in section 16A of the Act as under:



- a. Drinking Water : 15 %
- b. Irrigation : 75%
- c. Industrial : 10%

## 27. 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:

- i) *Whether this Authority has jurisdiction to adjudicate the present dispute? AND Whether the Petitioner has the locus standi in filing this Petition before this Authority?*
- ii) *Whether the Criteria issued by this Authority are mandatory for calculating the quantity of water to be reserved for a particular water supply scheme?*
- iii) *Whether the reservation for drinking water supply schemes can be restricted to schemes for command area only?*
- iv) *Whether it is necessary for MJP or ULBs or RLBs to obtain letter of support / drinking water reservation prior to finalisation of DPR? If yes, what directions need to be issued?*

## FINDINGS OF THE AUTHORITY

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

- i) *Whether this Authority has jurisdiction to adjudicate the present dispute? AND Whether the Petitioner has the locus standi in filing this Petition before this Authority?*

The present Petition has been filed by the Grampanchayat Pimpri Nirmal, Tal. Rahata, Dist. Ahmednagar through Petitioner - Shri. Dnyandev Ghorpade who was Ex-Sarpanch of said Grampanchayat and is an authorised representative of Grampanchayat. The Grampanchayat has passed the resolution on May 21, 2018 and authorised the Petitioner to file the Petition before this Authority. As per the clause



11(2) of the MWRRA (Conduct of Business) Regulations 2013, the petitioner is fulfilling the requirement of the clause 11(2) (b) of categories of bulk water users i.e. Grampanchayat. Thus the Petitioner has a *locus standi* in this matter. Similarly, the Petitioner has prayed for implementation of the Criteria determined by this Authority dated September 22, 2017. Hence, as per provision in Section 11(b) of the Act, this Authority is empowered to adjudicate in this matter.

Thus, the answer to both the issue is in affirmative.

**ii) Whether the Criteria issued by this Authority are mandatory for calculating the quantity of water to be reserved for a particular water supply scheme?**

The MWRRA (Amendment & Continuance) Act, 2011 in its provision under Section 11(a) entrusts upon this Authority, the function of determining the Criteria for distribution of surface water entitlement by the River Basin Agencies within each category of use, on such terms and conditions as may be prescribed, after Sectoral Allocation is made under Section 16A by the State Government. Accordingly, the State Government vide GR dated November 17, 2016 has decided the Sectoral Allocation and thereafter this Authority has determined the Criteria for distribution of surface water entitlement on September 22, 2017 in consultation with the stakeholder's representative and the experts in the field.

This Authority is of view that the reservation to the water user entity is the letter of support for investment to be made on water supply scheme or the industry as the case may be and thus it is for the preparation of detailed project report of such proposed scheme. Actual quota of water that will be supplied shall be governed by the entitlements granted by the River Basin Agencies based on the population prevailing at the time of granting the entitlements and reasonable use criteria determined by this Authority from time to time and the yearly allocation declared by the Prescribed Authority based on reservoir contents of the year. Hence, the criteria made applicable for the entitlement is also need to be followed while granting the reservations.

Thus, the answer to the issue is in affirmative.



**iii) Whether the reservation for drinking water supply schemes can be restricted to schemes for command area only?**

Water in its natural state is a common pool resource and the Hon'ble Supreme Court of India has applied the public doctrine to water. In view of the provisions mentioned in paragraph 22, the right of access to clean drinking water is fundamental right to life and the State Government is duty bound to provide adequate drinking water to all its citizens. Hence, the State Government cannot restrict to grant drinking water resource in project command only. The concept of command area is only restricted to irrigation use. As such, reservations for drinking water schemes cannot be restricted to schemes in command area only.

Thus, the answer to the issue is in negative.

**iv) Whether it is necessary for MJP or ULBs or RLBs to obtain letter of support / drinking water reservation prior to finalisation of DPR? If yes, what directions need to be issued?**

The present issue is arising out of the preparation of DPR by MJP, the Respondent No. 5 herein, without obtaining prior letter of support / reservation from WRD, though WRD is the nodal department for planning and management of the water resources of the State. If MJP or ULBs concerned, the Respondents, would have approached WRD for letter of support or reservation for a quota of water prior to finalisation of the scheme, this controversy would have been arisen at all.

Hence, the Authority is of considered view that prior to commencement for preparation of DPR by MJP or ULBs or RLBs, WRD must be consulted for selection of source for the drinking water supply scheme and letter of support / reservation for necessary quota of water be obtained from WRD. Hence, necessary directions need to be passed in this regard.

Thus, the answers to both the issues are in affirmative.



## 29. 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:

- i) In light of the observations made in Paragraph 22, 24 and 26 and findings in Para 28 above, the State Government is competent to sanction drinking water entitlements within Sectoral Allocation to any water use entity even outside command area of the project. Command area cannot be the limiting boundary for supplying water for drinking purpose.
- ii) The State Government is also competent to swap the drinking water reservations from one project to another project if the drinking water use on particular project is in excess.
- iii) Thus, the State Government is competent to take decision to grant water reservation to Shirdi Sansthan, Shirdi Nagarpanchayat including or excluding Kopargaon Nagarpalika after giving due consideration to:
  - a) Likely total drinking water demand including the future demand of the villages in the command area of Nilwande project and consequential reduction in the command area of the Nilwande project.
  - b) The facts that Nilwande project is planned for 50% dependable yield.

If the State Government decides to grant drinking water reservation to this scheme, it shall be given strictly following the provisions in the Criteria dated September 22, 2017 determined by this Authority under the provisions of Section 11(a) and 11(q) of the MWRRA Act, 2005.

Further, as provided in clause 6.2 (i) & (vii) of the Criteria determined by this Authority on September 22, 2017, the conditions shall be imposed on the water use entity to lift the water by closed pipeline from the source and to construct concurrently sewage treatment plant of adequate capacity to treat entire sewage that will be generated, reuse the treated water to extent possible for non-potable demands and make available the remaining water for agriculture use / industrial use.





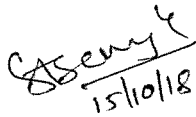
c) The water user entity shall be made aware in the letter of reservations that this reservation is only the letter of support for investment to be made on water supply scheme. Actual quantity of water that will be supplied shall be governed by the entitlements granted by the River Basin Agencies based on the prevailing population and reasonable use per capita norm determined by this Authority from time to time and the yearly allocation declared by the Prescribed Authority based on reservoir contents of the year.

iv) Water Resources Department being Nodal Department for planning and management of the water resources in the State, Maharashtra Jeevan Pradhikaran or Zilla Parishad or any Urban Local Body must not finalise the source of water for their drinking water supply scheme without prior consultation with WRD and Draft Project Reports of any water supply schemes must be finalised only after obtaining the letter of support / water reservations from the Water Resources Department. The State Government shall issue detailed directions / guidelines in this regard to all concerned.

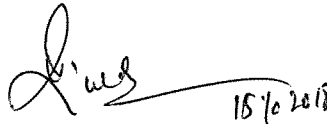
The Petition is accordingly disposed.

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

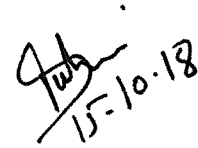
Delivered on October 15, 2018.

  
15/10/18

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


  
15/10/2018

**(Vinod. J. Tiwari)**  
Member (Law)

  
15-10-18

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



  
15/10/18  
**(K. P. Bakshi)**  
Chairman