



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

(महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, २००५ चे कलम ३ अन्वये स्थापित वैधानिक प्राधिकरण)

Maharashtra Water Resources Regulatory Authority

(A Statutory Authority Established u/s 3 of Maharashtra Water Resources Regulatory Authority Act, 2005)


No. MWRRRA/2019/Suo- Moto/ Washim / Case No. 4 of 2019/464

Dt : 09/09/2020

Subject: In the Matter of suo-motu action on the representation preferred by the Petitioner – Govind Baba Water Users association, Nimbi Tal.Manglurpir Dist. Washim through its Chairman, Govind Baba Water Users Association, Nimbi Tal.Manglurpir Dist. Washim to release water through canal of Motsawanga Minor Irrigation Project, Motsawanga Taluka Manglurpir District Washim for rabbi season 2018-19 – Case No. 4 of 2019

Appended is a copy of the order no. 06/2020 Dated 09/09/2020 in the above Matter

(By order of the Authority)


(Dr. Ramnath Sonawane)
Secretary

Encl: As above



Copy for information & necessary action:

1. The Chairman, Govind Baba Water Users Association, Nimbi Tal. Manglurpir Dist. Washim- (Petitioner)
2. The Chief Engineer, Special Project, Water Resources Department, Sinchan Bhavan, Shivaji Nagar, Amravati – 444 602 (Respondent No.1)
3. The Superintending Engineer, Washim Irrigation Circle, Civil Line Road, Washim – 444 602; (Respondent No.2)
4. The Executive Engineer, Washim Irrigation Division (Construction), Civil Line Road, Washim – 444 602; (Respondent No.3)



सत्यमेव जयते

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

(महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, २००५ चे कलम ३ अन्वये स्थापित वैधानिक प्राधिकरण)

Maharashtra Water Resources Regulatory Authority

(A Statutory Authority Established u/s 3 of Maharashtra Water Resources Regulatory Authority Act, 2005)



ORDER No. 06/2020

(Issued in compliance proceeding arising out of Order No.6/2019)

In the Matter of Suo-Moto cognizance taken by this Authority

on the representation preferred by the Petitioner – Govind Baba Water Users association, Nimbi Tal.Manglurpir Dist. Washim through its Chairman, Govind Baba Water Users Association, Nimbi Tal.Manglurpir Dist. Washim to release water through canal of Motsawanga Minor Irrigation Project, Motsawanga Taluka Manglurpir District Washim for Rabbi season 2018-19 –

Case No. 4 of 2019

The Chairman,
Govind Baba Water Users Association, Nimbi
Tal.Manglurpir Dist. Washim

.....Petitioner/Informer

V/s

1. The Chief Engineer, Specified Project, Water Resources Department, Sinchan Bhavan, Shivaji Nagar, Amravati – 444 602;
2. The Superintending Engineer, Washim Irrigation Circle, Civil Line, Washim – 444 505;
3. Executive Engineer, Washim Irrigation Division (Construction), Civil Line, Washim – 444 505.

.....Respondents

Coram: Dr. S. T. Sangle, Member (Economics)
Shri V.J. Tiwari, Member (Law)

Date: September 09, 2020

BACKGROUND

- 1) Chairman Govind Baba Water Users Association, Nimbi Taluka Mangrulpir District Washim approached this Authority through its representation dated 02.01.2019 and prayed for suitable directions to Respondents to release water through canal of Minor Irrigation Project, Motsawanga Taluka Mangrulpir District Washim for rabbi season of the year 2018-19 and to pay compensation for losses made in this season due to non-release of water into the Canal.
- 2) The Authority having considered the issue & taken cognizance on the said representation of the Petitioner/Informer and by exercising the power vested in it under Regulation 11 (1) of MWRRA Conduct of Business Regulation, 2013 ("Regulations" for short) has decided to initiate Suo - moto proceedings on the same considering the grievances brought forward in the said representation in the larger interest of the farmers, especially the members or the proposed beneficiaries of the Govind baba Water Users Association ("Petitioner WUA" for short).
- 3) The Authority by exercising the powers under the provisions in Regulation 11 (4) of the Regulations, prior to take any decision on the said application, issued notices to all concerned for filling their replies and posted the matter for the hearing.
- 4) The Authority conducted two hearings and posted the matter for the final disposal of the same on May 6th, 2019. As per the directions given, the compliance hearing was scheduled on February 11th, 2020. The Authority took the para-wise compliance of the directions given.
- 5) Per Respondent No.3 - Executive Engineer, Washim Irrigation Circle, Washim submitted detailed compliance Affidavit in Reply dt.07.02.2020.
- 6) The Gist of Proceedings dated February 11th, 2020 :

Sr. No.	Name	Designation
1	Arvind Gedam	Superintending Engineer, Washim Irrigation Circle, Washim
2	Prashant V.Borse	Executive Engineer, Washim Irrigation Division, Washim(Construction)



- A. As per the Authority's Order dated June 11, 2019, the Superintending Engineer, Washim Irrigation Circle, Washim (Respondent No. 2) was directed to take immediate steps for capacity building of the Executive Engineer, Washim Irrigation Division, Washim (Construction), (Respondent No.3) and Canal Officers working under him. The Authority questioned the Respondent No.2 whether he complied with the direction given by the Authority. The Respondent No. 3 replied that it was proposed to send the members of WUA for training in WALMI, Aurangabad. The Authority was not contended with the reply given by the Respondent No.3.
- B. The Authority questioned the Respondent No. 3 that why the directions given to Respondent No. 2 was not complied. The Respondent No. 3 replied he took over the charge of Respondent No.2. It is the responsibility of the Respondent No. 3 to comply all the directions issued in the Order.
- C. The Authority questioned the Respondent No. 3 regarding the action taken as per the directions given in the Order. The Respondent No. 3 responded & replied that:
- i. The total quota available for the WUA for the year 2019-2020 is 3.43 Mcum and same was conveyed to the WUA. As per the request of WUA total 5 rotations is planned for Rabi season for the year 2019-2020. As of now only 2 rotations are completed. The water reached up to 3.5 kms out of total 11 kms length of canal. The Respondent No. 3 submitted that the WUA were issued notices for canal repairs but they failed to comply. The Authority expressed displeasure over the reply of the Respondent No. 3.
 - ii. There is no unauthorized utilisation of water from the WUA. Considering the last years' experience a lot of restrictions were put to control the over extraction of water from the upstream of reservoirs. There was no protest from the beneficiaries of the upstream of the reservoir. There was no restrain occurred while implementation of the schedule of irrigation.
 - iii. The Authority questioned to the Respondent No.3 that whether he knew the provision of Section 60 of MMISF Act. The Respondent No. 3 reply was in negative.
 - iv. The Authority questioned the Respondent No. 3 that whether they have provided the necessary technical and managerial support to the WUA as mandatory under Section 53 (i) of the MMSIF Act, 2005. The Respondent No. 3 replied positively.



v. The Authority questioned the Respondent No. 3 whether the water reached up to the tail end of the main canal. The Respondent No. 3 replied that the water reached only up to 3.5 kms out of total 11 kms. The Respondent No 3 submitted that the canal was handed over to the WUA for the operation and maintenance. The Authority opined that the cleaning of the main canal is also the responsibility of the canal officer as per Section 53 of the MMSIF Act, 2005. The Authority observed that the canal water is required to reach up to 11 kms. However, the canal water reached only up to 3.5 kms which will affect the B. C. ratio of the project.

The Respondent No. 3 further submitted that the division is trying to make the availability of the machinery for canal cleaning through the deployment program of Mechanical Department.

The Authority questioned to Respondent No 3 that if the water is not utilized and gets wasted after 31st May, 2020 who will be responsible for it. The Respondent No. 3 replied that the canal is handed over to the WUA under the Maharashtra Water Sector Improvement Projects (MWSIP), so it becomes the responsibility of the WUA to maintain and repair the canal.

vi. The Authority questioned the Respondent No. 3 regarding the collection of water charges and also what was the action taken against the WUA for non-payment of water charges. The Respondent No. 3 replied that the Canal is cleaned up to 3.00 Km and the Petitioner/Informer did not remit the water charges. No harsh action is taken against the WUA. The Authority pointed out the Respondent No. 3 should take appropriate action against WUA for non-payment of water charges, as it is directly related to the ultimate maintenance and utilization of the irrigation potential in the larger interest of the farmers.

vii. The Authority further pointed out that the task of collection of Cess is one of the prime responsibility and there is no excuse for the same.

7. This Authority vide letter dated 22.07.2020 directed to the Superintending Engineer, Washim Irrigation Circle, Washim to submit detailed Affidavit as regards to the observations/directions mentioned in Sr.No.3 as above.

8. The Executive Engineer, Washim Irrigation Division, Washim (Construction) with letter dated 11.08.2020 appended compliance in the form of Affidavit.



9. The Authority having considered the said submissions vide Letter dt.11/08/2020 as submitted by the Respondent No.3, closely scrutinized the issue and findings are as under:

FINDINGS OF THE AUTHORITY

As to the compliance of earlier directions of this Authority given to the Respondents:

- a) The Executive Engineer, Washim Irrigation Division (Respondent No.3) directed the WUA to deposit outstanding amount of water cess of Rs.7.84 lakhs vide its letter dated 14.02.2020. The WUA deposited Rs.0.74 lakhs. Till Rs. 7.10 lakhs is outstanding against WUAs. Department reminded to the WUAs vide its letter dated 02.05.2020 & 15.05.2020. However, the progress for the recovery of the dues is dismal and requires concrete time bound steps, which is missing at present.
- b) Respondent No. 3 organised workshop on the MMISF Act, 2005 and Maharashtra Irrigation Act, 1976 on 29.02.2020 at Washim. This workshop was guided by Professor (Ret), WALMI, Aurangabad. Canal Officers and all the staff related to the irrigation management were present. Irrigation management staff also attended the E-Workshop on strengthen of WUA organised by WRD from 21st May to 29th May, 2020 (Webinar)
- c) Respondent No.3 submitted that its office allots the quota of water to the WUAs on the basis of storage available in the dam as on end of rainy seasons and as per water entitlement as prescribed for them.
- d) Respondent No.3 organised one day workshop on 26.02.2020 at Washim for strengthens to the WUA. Approximately 150 participants were present. (Members of WUA and staff related to the irrigation management)
- e) Respondent No.3 and its staff are giving instructions to the WUA to maintain the canal network in good condition to ensure and commensurate the Prescribed Water Use Entitlements (PUWE) from the Department. The discharging capacity of main canal was reduced due to damage of main canal lining in some location due to heavy rains in last season and leakages are also observed through aqueduct. WUA is not able to repair structure and damaged lining due financial problems.



Department is preparing estimate of above works as a special repair works and will submit to the competent Authority for approval. This will restore the main canal design capacity and also help to ensure that water reached to the tail ender.

In the Affidavit Respondent No. 3 has complied point no. (b) To (d) fully and (a) and (e) partially and more time bound steps are required in complete compliance thereof.

Viewed above, the necessary directions being issued as recorded in operative period of this order.

FINAL ORDER / DIRECTIONS

Having heard the parties to the litigation and after giving due consideration to the documents as well as data on record and submissions made by the parties, an Affidavit appended with its letter dated 11.08.2020 as submitted by the Respondent no.3, this Authority, found it prudent to issue further directions as under :

- 1) It is directed to recover balance water charges/cess from Petitioner/ Informer Govind Baba Water User Association, Nimbi Taluka Mangrulpir District Washim within three month from date of this order.
- 2) Repair works to the main canal of Motswana Minor Irrigation Tank to be taken up as early as possible so that delivery of legitimate quota of water is ensured to the farmers at the tail end of the canal.
- 3) To be called for review of the implementation of the orders as well as final compliance thereof to be taken on 15.12.2020 at 3:00 p.m.
- 4) To be Listed accordingly, by suitable modes, considering then prevailing Covid-19 Pandemic Guidelines.
- 5) Ld. Secretary of the Authority to communicate all concerned and to seek compliance accordingly.

S/d
(Vinodkumar J. Tiwari)
Member (Law)

S/d
(Dr. S. T. Sangle)
Member (Eco)


(Dr. Ramnath Sonwane)
Secretary

