



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)



MWRRA/2018/Legal/Case No. 16 (2018)/193

Date : 27/02/2020

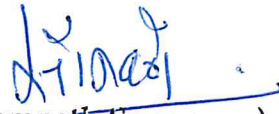
Case No. 16 of 2018

In The Matter of

A Petition filed by Cdr. Milind More (Retd.) for seeking approval of water consumption at the rate of 135 liters per person per day at Sahyadri School (KEI), Pune.

Please find enclosed herewith a copy of MWRRA Order No. 01/2020 dated 27/02/2020 in the above matter.

Encl : As above


(Dr. Ramnath Sonawane)
Secretary, MWRRA

Copy for information & necessary action to :-

1. Cdr. Milind More (Retd.), Administrative Officer, Sahyadri School- KFI, Post, Tiwai Hills, Gundalwadi, Rajgurunagar, Taluka Khed, Dist. Pune-410513. (Appellant)
2. Superintending Engineer, Pune Irrigation Circle, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune-411011. (Respondent)



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Maharashtra Water Resources Regulatory Authority

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ORDER NO. 01 / 2020

In the Matter of

A Petition filed by Cdr. Milind More (Retd.) Administrative Officer
Sahyadri School, seeking approval of water consumption at the rate of 135
liters per person per day at Sahyadri School - Case No. 16 of 2018.

Cdr. Milind More
Head Administrator, Sahyadri School
Rajgurunagar, Pune

.... Petitioner

Vs.

Superintendent Engineer
Pune Irrigation Circle, Pune

....Respondent

Coram: Shri. K. P. Bakshi, Chairman
Shri. V. M. Kulkarni, Member (WRE)
Shri. Vinod J. Tiwari, Member (Law)

Date : February 27, 2020

BACKGROUND

Sahyadri School is a fully residential, co-educational, ICSE School run by the Krishnamurti Foundation India & was inaugurated in the Year 1995. The School is located around 70 Km from Pune City in Rajgurunagar Taluka of Pune District near the Chaskaman reservoir.



2. Water Resources Department has initially granted Sahyadri School a temporary sanction to lift 70,000 litre a water per day from Chaskaman dam from November 1995 to October 1996. This temporary sanction was renewed yearly thereafter. In the year 2001, the Sahyadri School & Water Resources Department has come into an agreement for lifting 80,000 litre water per day from Chaskaman dam. The agreement was renewed till October 2016.
3. On expiry of the above agreement, the Respondent had informed the Petitioner to seek approval of permanent water reservation. On receipt of Application from Petitioner, the Respondent submitted proposal to Maharashtra Krishna Valley Development Corporation, Pune with norm of 55 litres per capita per day (lpcd) as per MWRRRA's "Criteria for Distribution of Surface Water Entitlements by River Basin Agencies for Domestic & Industrial Uses" dated September 22, 2017.
4. As aggrieved by the action of Respondent, the Petitioner has filed a Petition on October 12, 2018 before this Authority as per the Para 12 of the MWRRRA's above said Criteria dated September 22, 2017.

GIST OF THE PRAYERS

5. The Petitioner, through their Petition filed before this Authority, has prayed for following reliefs:
 - i) To grant permission of 135 lpcd norm to School for implementation of basic necessities as well as effective excrement drainage and sanitation system.

THE PROCEEDINGS BEFORE THIS AUTHORITY

After filing of the Petition, the Authority conducted two hearings in the matter i.e. on August 27, 2019 and October 23, 2019 and gave fair & equal opportunities to the parties to present their case on merit.



A) GIST OF THE FIRST HEARING ON AUGUST 27, 2019

7. This hearing was attended by Cdr. Milind More (Retd) - Petitioner and Shri. B. K. Shete, Executive Engineer, Chaskaman Irrigation Division, Pune representing the Respondent.
8. The Authority questioned Shri. B. K. Shete - Executive Engineer that whether they received the copy of the Petition and why they did not file any say in reply to the Petition. The Executive Engineer replied that they have not received any copy of the Petition by the Petitioner. However, the Executive Engineer submitted that the Petitioner is taking water directly from the Chaskaman reservoir through the pipeline. Petitioner has installed water meter on the pipeline which is in working condition and the Petitioner is paying the water charges regularly.
9. The Petitioner stated that the School is 25 years old and temporary reservation was granted on yearly basis and later on five yearly basis. In 2015, the Petitioner submitted approval for water consumption, but the Respondent - Superintendent Engineer asked the Petitioner to apply for permanent approval instead of temporary approval which is given yearly. The Respondent - Superintendent Engineer asked the Petitioner to submit the proposal as per the MWRRA's 'Criteria for Distribution of Surface Water Entitlement by River Basin Agencies for domestic and industrial uses' which is 55 lpcd.
10. The Authority enquired the Petitioner whether Sahyadri School is a residential school and how many students and staff are residing in the campus presently? The Petitioner stated that Sahyadri School is a residential school and it consists of 300 students and 270 staff members residing in their premises.
11. The Authority enquired the Petitioner that whether rainwater harvesting measures have been taken? The Petitioner stated that they have started water harvesting and recycling and some work has been completed. The Authority further pointed out that if rainwater harvesting and recycling is done, then non potable requirements can be satisfied.



12. Having heard the parties to the litigation and after taking into consideration record of all submissions and inputs from the parties, the Authority issues the following directions:
1. Executive Engineer and the Applicant should visit jointly the campus of the school and verify the following:
 - a. Number of staff present in Sahyadri School.
 - b. Last 5 years actual water consumption.
 - c. Last 5 years water bill raised and also any arrears due.
 - d. Whether Government has given approval?
 - e. Whether any rain water harvesting is done?
 2. Executive Engineer should visit the campus by September 6, 2019.
 3. Respondent should file an Affidavit in reply with mentioning the above factual information by September 13, 2019.
 4. Petitioner should file the Rejoinder if any, by September 20, 2019.

B) GIST OF THE SECOND & FINAL HEARING ON OCTOBER 10, 2019

13. This hearing was attended by Cdr. Milind More (Retd) - Petitioner and Shri. B. K. Shete, Executive Engineer, Chaskaman Irrigation Division, Pune representing the Respondent.
14. Shri. Shete for the Respondent stated that as per the Authority's direction given in the last hearing, he is submitting the Affidavit in Reply & submitted the field visit report. As per the visit report, there are about 630 people in the Sahyadri School both permanent and temporary. The School has installed water meter in January 2018 and average water use is about 75,000 litres per day. The School is being charged with 50% domestic & 50% industrial water tariff and there are no water tariff arrears pending. The School has installed 40,000 litres & 5,000 litres waste water treatment plants and treated water is being used for plantation & farming purpose. The School also has rainwater harvesting system which is connected to the percolation tank & further to a well and that water is used in emergency.



15. Shri. Shete further submitted that 0.029 Million Cubic Meter water (MCM) i.e. 80,000 litre per day was reserved for the Petitioner in the earlier agreements with condition that 50% of water quantity shall be charged at domestic rate and 50% at industrial rate. The Petitioner said that this quantity as well as the tariff condition is agreeable to him.

FRAMING OF ISSUES

16. This Authority, having considered the contentions made in the Petition & submissions of the parties, the documents placed on record as well as data submitted, framed the following relevant issues for consideration and adjudication:
- (i) *Whether the Petitioner has locus to file this Petition?*
- (ii) *Whether the Petitioner is entitled to get 135 lpcd of water for its domestic use? If not, what is the legitimate entitlement of the Petitioner?*

FINDINGS OF THE AUTHORITY

17. This Authority, after reviewing the pleadings, submissions and evidences on record has adjudicated the above issues. The findings of this Authority on the above issues are as under:

(i) **Whether the Petitioner has locus to file this Petition??**

a) Petitioner was aggrieved by the Respondent's proposal to Maharashtra Krishna Valley Development Corporation, Pune to reserve water to Petitioner with norm of 55 litres per capita per day (lpcd) as per MWRRA's "Criteria for Distribution of Surface Water Entitlements by River Basin Agencies for Domestic & Industrial Uses" dated September 22, 2017.

b) Thus, the Petitioner has filed a Petition before this Authority as per the Para 12 of the MWRRA's above said Criteria dated September 22, 2017 which reads as follow;

"12. DIFFICULTIES IN IMPLEMENTATION



In case of any difficulty in implementation of these criteria, the DBWU / IBWU / RBA may approach the Authority with specific petition. The decision of the Authority shall be final."

- c) In view of above provision, the Petitioner has locus to file this Petition.

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

(ii) Whether the Petitioner is entitled to get 135 lpcd of water for its domestic use? If not, what is the legitimate entitlement of the Petitioner?

- a) The Petitioner has claimed Domestic Water at the rate of 135 lpcd. The Petitioner has also given the breakup of water use which includes 60 lpcd for toilet flushing. He has supported his demand with the provisions IS 1172-1993 and URDPFI Guidelines of 2014. The Petitioner has further argued that he has been allotted water at the rate of 80,000 liters per day since March 22, 1999 and he has signed an agreement with the Respondent on March 18, 2011 to draw 0.029 MCM of water annually with effect from November 01, 2010.
- b) The Respondent submitted that as the Petitioner's school is located in Gundalwadi, Taluka Khed, District Pune. The school being in rural area, he is entitled to get water for domestic use at rate of 55 lpcd as per the Criteria laid down by this Authority on September 22, 2017.
- c) The Authority has observed that :
- c1) As per the Criteria determined by this dated September 22, 2017, the Petitioner is entitled for domestic water supply at 55 lpcd plus 15% for distribution losses. The quantity so worked out is 0.0145 MCM per annum.
- c2) As per the last agreement with the Petitioner which was existing until October 31, 2016. As per the Clause 11 of the Agreement, the Petitioner was allowed to draw 0.029 MCM of water per annum, at rate which shall be average of Domestic and Industrial Rate prevailing from time to time. It means 50% quantity is chargeable at Domestic Rate and 50% at Industrial Rate. During the proceedings



before this Authority, Petitioner agreed with the same terms and conditions of tariff.

c3) The Petitioner was sanctioned water at 80,000 liters per day i.e. 0.029 MCM annually since March 22, 1999 as against his present demand of 135 lpcd which comes to 0.031 MCM annually.

c4) The Authority considers the above authorization with respect to Section 31(B) of the MWRRA Act, 2005 which reads as;

31(B) " Notwithstanding anything contained in this Act or in any other law for the time being in force, or in any order, judgment or decree of any court, tribunal or authority, any person or Water User Entity to whom a permission, allocation, sanction, authorization or Entitlement of water has been granted by the High Power Committee or the River Basin Agency or the State Government, prior to the 17th September 2010, being the date of commencement of section 1 of the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011, shall be deemed to have been granted, in accordance with the provisions of this Act and accordingly the same shall continue and no such person or Water User Entity shall be required to obtain fresh permission, allocation, sanction, authorization or Entitlement to draw water. "

The sanction was accorded to the Petitioner prior to the September 17, 2010, being the date of commencement of Section 1 of MWRRA (Amendment & Continuance) Act 2011, this Authority, considering the provisions in Section 31B of MWRRA (Amendment & Continuance Act) 2011, is of the opinion that sanction of 0.029 MCM is legal and intact as on today and can't be set aside.

c5) The Petitioner is an Institute. In prevailing tariff structure, category of commercial consumer is not existing. However, as per Section 2 (1) (f) of the MWRRA Act, 2005, the category industrial & commercial is clubbed together.

c6) Thus, this Authority is of the considered view that the Petitioner is entitled to get 0.029 MCM of water annually. Out of the total water use, 50% quantity shall be chargeable at prevailing domestic tariff and 50% by prevailing industrial tariff. Both the parties shown their



consent for this during the hearing on October 10, 2019. Thus the dispute is resolved by consensus within the framework of the law.

Thus, the Petitioner is not entitled for water at 135 lpcd but entitled for 0.029 MCM per annum.

The issue under consideration is answered accordingly.


DIRECTIONS

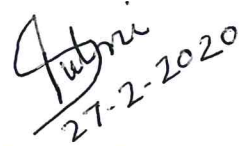
18. Having heard the parties to the litigation, and after giving due consideration to the documents as well as data on record, submissions made by the parties and having adjudicated the issues framed, this Authority, hereby directs as under:

- (i) The Petitioner is entitled to get 0.029 Million Cubic Meter water annually.
- (ii) The 50% water supply shall be charged at prevailing domestic water tariff and 50% at prevailing industrial / commercial tariff. Both the parties may enter into an agreement accordingly.

The Petition is accordingly disposed off with no order to the costs.

Delivered on February 27, 2020


(Vinod J. Tiwari)
Member (Law)


(V.M. Kulkarni)
Member (W.R. E.)




(K. P. Bakshi)
Chairman

