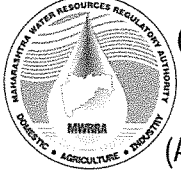




# महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण



(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. 3/2019

In the Matter of

Appeal by Shri. Nandkumar Dagdu Mane (Patil), Chairman, Chandragiri Kalwa Pani Wapar Sahakari Seva Sanstha Ltd., Rahimatpur (Satara) & two others as regards Water Allocation between Dhom & Dhom-Balkawadi Projects as per DPR - Case No. 6 of 2018

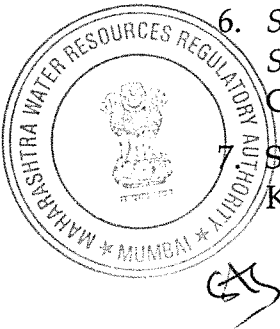
1. Shri. Nandkumar Dagdu Mane (Patil), Chairman, Chandragiri Kalwa Pani Wapar Sahakari Seva Sanstha Ltd., Rahimatpur (Satara), 415511.
2. Shri. Avinash Jayavant Mane, Chairman, Kal Bhairav Kalva Pani Wapar Society, Rahimatpur (Satara), 415511.
3. Shri. Shivaji Kondiram Mane, Chairman, Pawan Putra Kalva Pani Wapar Society, Rahimatpur (Satara), 415511.

..... Appellants

----Vs-----

1. Chief Engineer (WR), Water Resources Department, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011
2. Secretary (WRM & CAD), Water Resources Department, Mantralaya, Madam Kama Road, Mumbai - 400 032.
3. District Collector, Collectorate Office, Powai Naka, Satara 415001.
4. Superintending Engineer, Satara Irrigation Circle, Sinchan Bhavan, Krishnanagar, Satara - 415503.
5. Superintending Engineer, Satara Irrigation Project Circle, Sinchan Bhavan, Krishnanagar, Satara - 415503
6. Shri. Vilas Nalawade, Hanumant Water User's Association, Alajapur, Phaltan Satara through Adv. Vishwanath S. Talkute, 5, 1<sup>st</sup> floor, Parekh Vora Chambers, 66 Nagindas Master Road, Fort, Mumbai - 400001.
7. Shri. Santosh Hanumantrao Shinde, Jyotirling Water Users Association, Koparde, Tal. Khandala, Dist. Satara - 415521.

.....Respondents

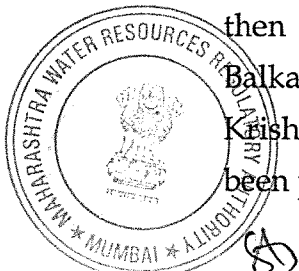


**Coram: Shri. K. P. Bakshi, Chairman**  
**Shri. V. M. Kulkarni, Member (WRE)**  
**Shri. Vinod J. Tiwari, Member (Law)**  
**Dr. S. T. Sangle, Member (Economics)**

**Date : April 9, 2019**

## **BACKGROUND**

1. The matter is related to an appeal arising out of an Order in original as passed by the Primary Dispute Resolution Officer - PDRO dated May 25, 2018 pertaining to the issue of inadequate delivery of water to the Water Users Associations ("WUA" for short) at tail end of Dhom Left Bank Canal ("DLBC" for short), as compared to entitlements granted to them under Maharashtra Management of Irrigation System by Farmers Act ("MMISF" for short), 2005. The Appellants have approached the Maharashtra Water Resources Regulatory Authority, ("Authority" for short) under Section 22(3) of the MWRRA Act, 2005, challenging the Order passed by the Chief Engineer (WR) Pune and the Primary Dispute Resolution Officer ("PDRO" for short) for Krishna Basin, dated May 25, 2018. The Appellants have alleged that they are deprived of their legitimate quota due to diversion of unduly excess water in Dhom-Balkawadi Canals. The Appellants are covered under the Krishna Project Stage-1 which was accorded Administrative Approval in the Year 1967 by the State Government. It had following three components 1) Dhom Dam, 2) Kanher Dam & 3) Arphal Canal. The Krishna Project Stage-1 envisages irrigating 74000 ha in Krishna Basin. Later, the Dhom-Balkawadi Project was administratively approved in the Year 1996, as a part of Krishna Project Stage - I, which comprises construction of dams across Krishna River, 19 Km upstream of existing Dhom Dam. It was originally proposed in the Detail Project Report ("DPR" for short), that water in Dhom-Balkawadi Dam will be released into Dhom Dam and then through tunnel outlet on left bank of Dhom Dam to Dhom-Balkawadi canal for irrigating 18,100 ha area in Nira sub-basin of Krishna basin. The grievance of the Appellants is that they have not been provided with the water as per their entitlement.



2. Earlier, the present Appellants had approached this Authority (Case No. 4 of 2016) with the application in original. After hearing the parties in the said matter, this Authority had disposed off the said application on June 12, 2017 with the following directions;

- (i) *"The Interveners are required to be given rightful opportunity to hearing to enable them to submit their contention in view of their Application in the initial case. The matter is, therefore, sent back to the PDRO to conduct a fresh hearing by issuing due notice to all parties involved. The PDRO shall conduct a fresh hearing within 30 days from the date of issuance of this order.*
- (ii) *PDRO is further directed to deliver self - explanatory order addressing all relevant issues posed in the Appeal and also those issues which will be argued before him. The order is expected to serve as operating guidelines to the field staff and shall also convey relevant and meaningful information to various stakeholders regarding their water rights. The PDRO shall issue order within a month after the hearing is over.*
- (iii) *PDRO shall also assess whether the Appellants WUAs are getting their entitled quota of water, and if not (after assessing the reasons thereof), shall issue necessary directions so that Appellants' right will be protected.*
- (iv) *The proposal presented by SE, SIPC, Satara dated April 3, 2017 is hereby quashed & set aside. However, it is open to PDRO to cover relevant contents of the said proposal in his direction after due verification."*

3. Accordingly, the present Appellants - on behalf of WUAs, had filed the Application before the PDRO for the Krishna basin (Case No. 2/2017 on the file of PDRO) with the main prayer to issue allocation of water of Dhom Project & Dhom-Balkawadi Project as per the DPR and not to release water to Dhom-Balkawadi Project till Dhom Dam fills up to the level of 75% of its capacity.

4. The PDRO, after hearing all the parties, delivered his Order on May 25, 2018 and directed to share the water available on October 15 as per the decision of the Canal Advisory Committee. The PDRO has rejected the prayer of the Appellants of not releasing water into the Dhom canal until Dhom dam is filled up to level of 75%. The PDRO has upheld and confirmed that the water planning of the Dhom-Balkawadi project is eight monthly. This Order of PDRO also directs to share the deficit of



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water in lean years as per the provisions in the Section 12(6) (c) of the MWRRA Act, 2005.

5. The Appellants, being aggrieved by the Order of the PDRO dated May 25, 2018 has filed an appeal before this Authority on June 19, 2018 under Section 22(3) of the MWRRA Act, 2005.

### GIST OF THE PRAYERS

6. The Appellants, with the present appeal before this Authority have prayed for the following reliefs:

- (i) To admit the Appeal.
- (ii) To set aside the order of PDRO in Case No: 2/2017 dated May 25, 2018.
- (iii) To issue directives for allocation of water between Dhom & Dhom-Balkawadi as per approved DPR.
- (iv) To declare Dhom-Balkawadi Project as a 4-monthly project as there is no provision in the DPR of Nira-Deoghar for transferring 0.93 TMC of water for Dhom-Balkawadi.
- (v) To prevent diversion of water in Dhom-Balkawadi until Dhom reservoir is filled up to the level of 75%.
- (vi) To ban water release for Dhom-Balkawadi in Rabbi and Hot weather season.
- (vii) To ban diversion of water for Dhom-Balkawadi in deficit years.
- (viii) To ban utilization of water for canal lifts after 28<sup>th</sup> February as the said lifts are planned as eight monthly.

- (ix) Any other reliefs which this Authority finds deemed & appropriate in the facts & circumstances of the case in the larger public interest.



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## THE PROCEEDINGS BEFORE THE AUTHORITY

7. This Authority has conducted three hearings in this matter i.e. on July 30, 2018, September 5, 2018 and November 19, 2018 and reserved the Order for passing after receipt of further information and/ or records, if any, relevant to the present proceedings.

## THE FIRST HEARING AND THE INTERIM DIRECTIONS GIVEN

ON JULY 30, 2018

8. The first hearing was attended by the Appellants, Respondent No. 4 & 6 and representative of Respondent No. 5. During the hearing, SE SIC Satara - Respondent No. 4 submitted their say on the Appeal filed by the Appellant vide their letter dated July 27, 2018. The Rojnama / Record of proceedings have been issued in which following interim directions were issued :

8.1 *After having heard the parties and after considering the documents on record, this Authority recorded its observations and issued following directions:*

- (i) *Delete the name of PDRO who is Chief Engineer (I.D.) Pune from the list of Respondents.*
- (ii) *Chief Engineer (WR) Pune shall be the first Respondent.*
- (iii) *The Respondent No.4 shall submit notarized Affidavit which shall cover response to all points raised by the Appellants in their Appeal and also the following information :-*
  - a) *Command map of Dhom dam showing the jurisdiction of WUAs formed.*
  - b) *ICA of the project Dhom as per DPR.*
  - c) *WUA wise quota allocated and water delivered in last 3 years for Dhom Dam.*
  - d) *No. of rotations provided in the DPR and actually given in last 3 years for Dhom Dam.*
- (iv) *Any additional Affidavit/Rejoinder shall be filed before August 24, 2018 with copy to all parties.*



*[Handwritten signature]*



**THE SECOND HEARING AND INTERIM DIRECTIONS GIVEN  
ON SEPTEMBER 5, 2018**

9 The second hearing was attended by the Appellants, representatives of Respondent Nos. 4 & 5 and Advocates of Appellants, Respondent Nos. 4 & 6. As per the direction given in the first hearing, SE SIC Satara - Respondent No. 4 submitted his compliance vide letter dated August 23, 2018. The Appellants have also submitted their say vide letter dated August 20, 2018 and SE SIC Satara - Respondent No. 4 filed his reply on Appellants say vide his letter dated August 27, 2018. The Rojnama / Record of Proceedings have been issued in which following interim directions were issued as under :

9.1 *Based on the pleadings made by the parties and the documents kept on record, this Authority observed that the PDRO while passing the order dated May 25, 2018 has not taken cognizance of Para 3 of the Order of this Authority dated June 12, 2017 and therefore issued following directions.*

- (i) *Respondent No.4 shall submit the reasons due to which the Appellants are not getting their allotted quota.*
- (ii) *As the original DPR and its subsequent revisions indicate confusing provisions regarding water planning, Respondent No.2 shall declare quota of water for different water use sectors and different project components viz. canals, lifts etc.*
- (iii) *Respondent No.1 shall also clarify the dependability on which the present water planning of Dhom Project is based.*
- (iv) *Respondent No.4 shall submit the following information for last 10 years :*
  - (a) *Yield available in the Dhom reservoir and Balkawadi reservoir.*
  - (b) *Live Storage on 15<sup>th</sup> October in Dhom reservoir.*
  - (c) *Live Storage on 30<sup>th</sup> June in Dhom reservoir.*
  - (d) *Water released for Dhom-Balkawadi*
  - (e) *Water use from in Dhom Project for irrigation, drinking, industrial, evaporation.*
- (v) *Respondents should file their say on Affidavit.*



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- (vi) *The Respondent should give copies of say to the Appellants and also to the interveners.*
- (vii) *The Authority expressed displeasure regarding absence of Respondent No.2 for the hearing.*
- (viii) *Respondents shall submit the information asked for, before September 30, 2018.*

### THE THIRD & FINAL HEARING ON NOVEMBER 19, 2018

10 The third hearing was attended by the Appellants, representatives of Respondent Nos. 2, 4 and 5 and Advocates of Appellants, Respondent Nos. 4 & 6. As per the direction given in the second hearing, Adv. V. S. Talkute for Respondent No. 6 filed his Affidavit in Reply dated September 28, 2018 and Executive Engineer; SID Satara also filed Affidavit in Reply on behalf of Respondent No. 4 dated October 10, 2018. The Rojnama / Record of Proceedings have been issued in which following directions were issued while closing the matter for the final orders:

10.1 *Based on the pleadings made by the parties and the documents kept on record, this Authority issued following directions in the said last hearing:*

- (i) *Respondent No. 4 shall submit the certified copies of following documents within two weeks from the receipt of this direction with copy to all parties;*
- a) *Project-wise planned water utilization in Krishna Project submitted by the State Government to the Tribunal.*
- b) *Water Planning of Krishna Project, Dhom Irrigation Project, Dhom-Balkawadi Project as mentioned in their respective project reports with subsequent revisions if any.*
- c) *Allocation of water available in Dhom dam including the contents in Dhom-Balkawadi reservoir for various purposes viz. drinking, industry, irrigation (through Dhom canals, Dhom-Balkawadi canals, Government lift schemes (scheme-wise), Krishna canals etc. as per prevailing planning.*



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- d) Water available for various uses as per sectoral allocation decided by State Government vide GR dated November 17, 2016.
- e) Individual lift permissions given from reservoirs and canals.
- (ii) Appellants /Respondents may file rejoinders if they want to do so in further two weeks latest by December 31, 2018.
- (iii) The matter is closed for the Final Orders.

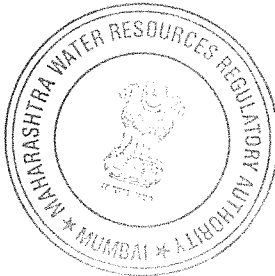
### DOCUMENTS RECEIVED AFTER FINAL HEARING

- 11 In response to the directions of this Authority dated September 5, 2018 Shri. V. B. Jadhav, EE, DBPD, Satara has submitted an Affidavit dated November 17, 2018 with the necessary information.
- 12 In response to the directions of this Authority dated November 19, 2018 Shri. N. T. Potdar, EE, SID, Satara has, vide his Affidavit dated December 29, 2018, submitted the information sought by this Authority.

### DATA ON RECORD

- 13 Water Allocation of Krishna Project for various project components.

Ref :- Page 79 of 4<sup>th</sup> Revised Administrative Approval of Krishna Project vide MKVDC, Pune's Resolution No. MKVDC/ Krishna Project St-1/ (297)/ (1008/97)/ RAA/ MP-5/1329 dated February 13, 2004 and affidavit filed before this Authority by Shri. V. B. Jadhav, EE, DBPD, Satara dated November 17, 2018



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Sr. No.	Components	Quota Allotted (TMC)
<b>Krishna Project Stage I</b>		
A	Irrigation	
1	Dhom Canal (32,925 Ha.)	7.58
2	Kanher Canal (10,070 Ha.)	2.31
3	Arphal Canal (31,005 Ha.)	7.08
4	Evaporation	1.58





	<b>Total A (74,000 Ha)</b>	<b>18.55</b>
B	Drinking Water	4.80
C	Industrial Use	0.417
	<b>Total - Krishna Project Stage I</b>	<b>23.767</b>
<b>Krishna Project Stage II</b>		
A	Irrigation	
1	LIS - 5 Nos. & KTW - 9 Nos. (18,940 Ha.)	5.15
2	Jihe-Kathapur LIS (27,500 Ha.)	3.17
	<b>Total - Krishna Project Stage II</b>	<b>8.32</b>
<b>Total Planned Utilization for Krishna Project</b>		<b>32.087</b>

**14 Water Utilization provisions in Dhom Project**

Ref :- Shri. V. B. Jadhav, EE, DBPD, Satara Affidavit dated November 17, 2018

Sr. No.	Components	Quota Allotted(TMC)
1	Irrigation	
	a) Kharif	3.00
	b) Rabbi	2.57
	c) Hot Weather	1.91
	Total	7.58
2	Drinking Water	2.64
3	Industrial Use	0.23
4	Evaporation Losses	0.97
<b>Total</b>		<b>11.42</b>



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**15 Water Utilization provision in Dhom-Balkawadi Project**

Ref :- Page 5 & 6 of the 4<sup>th</sup> Revised Administrative Approval of Dhom-Balkawadi Project vide WRD's Resolution No. धोमब -११०९/प्र.क्र. ६९६/०९/मप्र-१, dated May 30, 2017 and Affidavit filed before this Authority by Shri. V. B. Jadhav, EE, DBPD, Satara dated November 17, 2018

Sr. No.	Components	Quota Allotted (TMC)
1	Gross Storage	4.08
2	Dead Storage	0.12

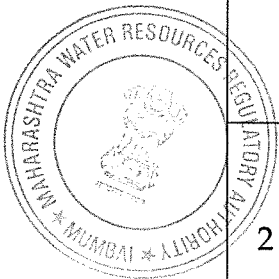


3	Live Storage	3.96
4	Brake up of Live Storage	
	i) Water to be released for Krishna Project (5 LIS)	0.64
	ii) Water to be released for Jihe Kathapur LIS	0.53
	iii) Water to be released for Command Area of Dhom-Balkawadi Project (18,100 Ha.)	2.70
	iv) Evaporation Loss	0.09
	<b>Total Planned utilisation of water stored in Dhom-Balkawadi reservoir</b>	<b>3.96</b>
5	Water to be lifted from Nira-Deoghar Canal for augmenting the supply of Dhom-Balkawadi canal	0.93
6	Utilisation for irrigation in Dhom-Balkawadi command (2.70 + 0.93)	3.63

16 Planned Annual Utilization of Projects Contemplated in Krishna Basin by Maharashtra, Out of Enblock 599 TMC use during any Water Year permitted by the Krishna Water Dispute Tribunal (KWDT) Decision

Ref : Letter of the State Government CWC 2001/(147/2001) -WRP dated October 20, 2001

Sr. No.	Name of Project	Sub-Basin	Planned Utilization in TMC			
			Irrigation	Drinking	Industry	Total
1	Krishna Project with Dhom, Kanher & Jihe-Kathapur LIS	K-1	26.868	4.800	0.417	32.085
2	Dhom Balkawadi (Part of Krishna Project)	K-1	2.750	0.000	0.000	2.750
	<b>Total</b>					<b>34.835</b>



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- 17 Annual utilization planning of water available from Dhom catchment at 50% dependable yield using Dhom & Dhom-Balkawadi storage.

Ref : 1) Affidavit filed by Executive Engineer, Satara Irrigation Division, Satara on behalf of Respondent No. 4 dated October 11, 2018.

2) Affidavit filed by Executive Engineer, Satara Irrigation Division, Satara on behalf of Respondent Nos. 4 & 5 dated December 29, 2018

(Figures in TMC)

	Kharif Irrigation	Rabi Irrigation	Hot Weather Irrigation	Total for Irrigation	Drinking	Industry	Evaporation	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Dhom Canals	3.00	2.67	1.91	7.58	2.64	0.23	0.97	11.42
Dhom-Balkawadi Canals	1.42	1.28		2.70			0.05	2.75
Jihe-Kathapur LIS (from Dhom-Balkawadi)	0.53			0.53				0.53
Kawathe-Kenjal LIS	0.43	0.53	0.32	1.28				1.28
Wasna LIS	0.21	0.57	0.14	0.92				0.92
Wangna LIS	0.27	0.70	0.37	1.34				1.34
<b>Total</b>	<b>5.86</b>	<b>5.75</b>	<b>2.74</b>	<b>14.35</b>	<b>2.64</b>	<b>0.23</b>	<b>1.02</b>	<b>18.24</b>

Note: There is no provision for individual lifts sanctioned vide G. R. dated November 21, 2002 in the water planning. As per Paragraph 1 of the said G. R., it is included in the water allotment of the canal.



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18 Source-wise Working & Closed Individual Lift Irrigation Schemes ("LIS" for short) of Dhom Project

Ref : Affidavit filed by Executive Engineer, Satara Irrigation Division, Satara on behalf of Respondent Nos. 4 & 5 dated December 29, 2018

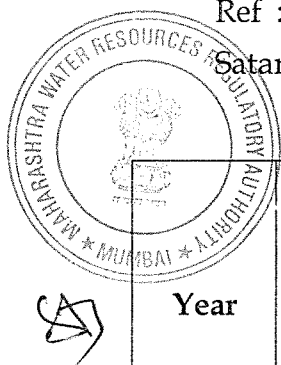
Sr. No.	Source	Total No. of Individual Lift Irrigation Schemes	Closed Individual Lift Irrigation Schemes	Working Individual Lift Irrigation Schemes	Area Irrigated (Ha)
1	Reservoir	193	39	154	1322.32
2	Right Canal	550	48	502	859.64
3	Left Canal	1486	166	1320	2292.12
	<b>Total</b>	<b>2229</b>	<b>253</b>	<b>1976</b>	<b>4474.08</b>

19 Data related to Dhom & Dhom-Balkawadi Projects' Yield, release to Dhom-Balkawadi and Dhom Projects Water use of Last Five Years

Ref : Affidavit filed by Executive Engineer, Satara Irrigation Division, Satara on behalf of Respondent No. 4 dated October 11, 2018

(Figures in Mm<sup>3</sup>)

Year	Yield in Dhom Dam	Yield in Dhom-Balkawadi	Release to Dhom-Balkawadi	Dhom Dam Water use				
				Irrigation	Drinking	Industrial	Evaporation	Total
2011-12	483.790	190.117	91.482	297.643	0.037	0.898	28.349	326.927
2012-13	398.829	198.570	90.714	243.604	0.037	0.179	27.633	271.453
2013-14	538.982	199.866	108.707	256.834	0.037	0.745	28.466	286.082
2014-15	431.350	213.636	107.224	233.941	0.037	0.635	26.757	261.370
2015-16	212.977	90.678	44.059	102.947	46.151	0.645	22.453	172.196
2016-17	514.000	223.755	96.500	274.805	0.037	0.248	29.212	304.302
2017-18	410.371	165.895	100.706	253.400	0.036	0.642	24.839	278.917
Average	427.186	183.217	91.342	237.596	6.625	0.570	26.816	271.607



20 Data Related to Dhom Project Season-wise Area Irrigated, Water use for Irrigation of Last Five Years

Ref : Affidavit filed by Executive Engineer, Satara Irrigation Division, Satara on behalf of Respondent No. 4 dated October 11, 2018

Sr. No.	Irrigation Year	Season	Area irrigated in Thousand Hectare (Including Area on Canal, Lift, Wells, River & Nalla)	Water Use in Mm <sup>3</sup>
1	2011-12	Kharif	10.766	30.678
		Rabi	31.653	155.38
		Hot Weather	7.319	127.949
		<b>Total</b>	<b>49.738</b>	<b>314.007</b>
2	2012-13	Kharif	1.993	3.461
		Rabi	31.641	138.2
		Hot Weather	7.405	102.06
		<b>Total</b>	<b>41.039</b>	<b>243.721</b>
3	2013-14	Kharif	7.308	11.555
		Rabi	31.571	143.984
		Hot Weather	7.202	102.124
		<b>Total</b>	<b>46.081</b>	<b>257.663</b>
4	2014-15	Kharif	7.265	0.000
		Rabi	31.922	143.618
		Hot Weather	7.499	90.325
		<b>Total</b>	<b>46.686</b>	<b>233.943</b>
5	2015-16	Kharif	13.753	45.233
		Rabi	27.408	57.625
		Hot Weather	0.809	0.127
		<b>Total</b>	<b>41.970</b>	<b>102.985</b>
6	2016-17	Kharif	8.428	0.000
		Rabi	33.047	149.231
		Hot Weather	11.855	125.573
		<b>Total</b>	<b>53.330</b>	<b>274.804</b>
7	2017-18	Kharif	24.145	0.000
		Rabi	56.154	148.230
		Hot Weather	12.000	125.230
		<b>Total</b>	<b>92.299</b>	<b>273.460</b>



*(Signature)*



21 Data related to Entitlements Granted, Demanded and Actual Delivery to Appellants WUA of Dhom Project of Last Five Years

Ref : Affidavit filed by Executive Engineer, Satara Irrigation Division, Satara on behalf of Respondent No. 4 dated October 11, 2018

**Pawan Putra Kalva Pani Wapar Society, Rahimatpur (Satara)**

**Sanctioned Quota in Thousand Cubic Meter (TCM)**



Kharif	521.00
Rabi	1323.00
Hot Weather	874.00
<b>Total</b>	<b>2718.00</b>

Sr. No.	Irrigation Year	Season	Water Demanded by WUA (in TCM)	Water Supplied to WUA (in TCM)	No. of Rotations
1	2011-12	Kharif	193.55	303.41	1
		Rabi	1764.00	929.82	4
		Hot Weather	806.05	868.65	4
		<b>Total</b>	<b>2763.60</b>	<b>2101.88</b>	<b>9</b>
2	2012-13	Kharif	0.00	0.00	0
		Rabi	1327.90	636.19	3
		Hot Weather	627.20	428.21	3
		<b>Total</b>	<b>1955.10</b>	<b>1064.40</b>	<b>6</b>
3	2013-14	Kharif	0.00	0.00	0
		Rabi	859.95	972.65	4
		Hot Weather	1114.75	731.62	3
		<b>Total</b>	<b>1974.70</b>	<b>1704.27</b>	<b>7</b>
4	2014-15	Kharif	0.00	0.00	0
		Rabi	1078.00	951.84	4
		Hot Weather	874.65	526.08	3
		<b>Total</b>	<b>1952.65</b>	<b>1477.92</b>	<b>7</b>
5	2015-16	Kharif	379.75	203.09	1
		Rabi	470.40	477.15	1
		Hot Weather	0.00	0.00	0
		<b>Total</b>	<b>850.15</b>	<b>680.24</b>	<b>2</b>
6	2016-17	Kharif	0.00	0.00	0
		Rabi	884.45	1074.19	3
		Hot Weather	1369.55	1150.04	3
		<b>Total</b>	<b>2254.00</b>	<b>2224.23</b>	<b>6</b>
7	2017-18	Kharif	0.00	0.00	0
		Rabi	1651.30	1519.00	3
		Hot Weather	1166.20	460.60	2
		<b>Total</b>	<b>2817.50</b>	<b>1979.60</b>	<b>5</b>



**Kal Bhairav Kalva Pani Wapar Society, Rahimatpur (Satara)**

Sanctioned Quota in Thousand Cubic Meter (TCM)



Kharif	635.00
Rabi	1617.00
Hot Weather	1070.00
<b>Total</b>	<b>3322.00</b>

Sr. No.	Irrigation Year	Season	Water Demanded by WUA (in TCM)	Water Supplied to WUA (in TCM)	No. of Rotations
1	2011-12	Kharif	343.00	122.50	1
		Rabi	1249.50	1026.55	4
		Hot Weather	661.50	487.55	3
		<b>Total</b>	<b>2254.00</b>	<b>1636.60</b>	<b>8</b>
2	2012-13	Kharif	0.00	0.00	0
		Rabi	774.20	784.00	3
		Hot Weather	661.50	539.00	3
		<b>Total</b>	<b>1435.70</b>	<b>1323.00</b>	<b>6</b>
3	2013-14	Kharif	0.00	0.00	0
		Rabi	1242.15	1005.00	4
		Hot Weather	882.00	516.95	4
		<b>Total</b>	<b>2124.15</b>	<b>1521.95</b>	<b>8</b>
4	2014-15	Kharif	232.75	0.00	0
		Rabi	1666.00	588.00	3
		Hot Weather	588.00	387.10	3
		<b>Total</b>	<b>2486.75</b>	<b>975.10</b>	<b>6</b>
5	2015-16	Kharif	196.00	0.00	0
		Rabi	379.75	245.00	1
		Hot Weather	0.00	0.00	0
		<b>Total</b>	<b>575.75</b>	<b>245.00</b>	<b>1</b>
6	2016-17	Kharif	0.00	0.00	0
		Rabi	1313.20	507.15	3
		Hot Weather	588.00	445.90	3
		<b>Total</b>	<b>1901.20</b>	<b>953.05</b>	<b>6</b>
7	2017-18	Kharif	0.00	0.00	0
		Rabi	788.90	578.20	3
		Hot Weather	428.75	414.05	3
		<b>Total</b>	<b>1217.65</b>	<b>992.25</b>	<b>6</b>



**Chandragiri Kalva Pani Wapar Society, Rahimatpur (Satara)**

Sanctioned Quota in Thousand Cubic Meter (TCM)



Kharif	645.00
Rabi	1660.00
Hot Weather	1120.00
<b>Total</b>	<b>3425.00</b>

Sr. No.	Irrigation Year	Season	Water Demanded by WUA (in TCM)	Water Supplied to WUA (in TCM)	No. of Rotations
1	2011-12	Kharif	490.00	301.35	2
		Rabi	1078.00	565.95	3
		Hot Weather	514.50	541.45	4
		<b>Total</b>	<b>2082.50</b>	<b>1408.75</b>	<b>9</b>
2	2012-13	Kharif	0.00	0.00	0
		Rabi	739.90	730.10	3
		Hot Weather	551.25	521.85	3
		<b>Total</b>	<b>1291.25</b>	<b>1251.95</b>	<b>6</b>
3	2013-14	Kharif	0.00	0.00	0
		Rabi	1176.00	955.50	4
		Hot Weather	735.00	499.80	4
		<b>Total</b>	<b>1911.00</b>	<b>1455.30</b>	<b>8</b>
4	2014-15	Kharif	196.00	0.00	0
		Rabi	1607.20	857.50	4
		Hot Weather	543.90	343.00	3
		<b>Total</b>	<b>2347.10</b>	<b>1200.50</b>	<b>7</b>
5	2015-16	Kharif	176.40	127.40	1
		Rabi	365.05	208.25	1
		Hot Weather	0.00	0.00	0
		<b>Total</b>	<b>541.45</b>	<b>335.65</b>	<b>2</b>
6	2016-17	Kharif	0.00	0.00	0
		Rabi	1188.25	769.30	3
		Hot Weather	595.35	502.25	3
		<b>Total</b>	<b>1783.60</b>	<b>1271.55</b>	<b>6</b>
7	2017-18	Kharif	0.00	0.00	0
		Rabi	1229.90	1006.95	3
		Hot Weather	619.85	588.00	3
		<b>Total</b>	<b>1849.75</b>	<b>1594.95</b>	<b>6</b>



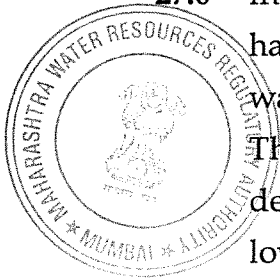


## FACTUAL MATRIX

- 22 The matter is related to a dispute primarily arising out of less delivery of water to the WUA at the tail end of the Dhom Left Bank Canal ("DLBC" for short) as compared to entitlements granted to them under MMISF Act, 2005.
- 23 The Dhom dam has two canals viz. DLBC of 113 Km in length & Dhom Right Bank Canal ("DRBC" for short) of 66 Km in length.
- 24 The Appellants are the WUAs on tail end of the DLBC. These WUAs have been formed under the provisions in MMISF Act, 2005. Appellants WUAs had signed agreements with the Executive Engineer, Dhom Canal Division, Satara but, they are not renewed.
- 25 Annual Water Entitlements given to the three Appellants WUAs viz. Pawan Putra Kalva Pani Wapar Society (Rahimatpur), Kal Bhairav Kalva Pani Wapar Society (Rahimatpur) & Chandragiri Kalva Pani Wapar Society (Rahimatpur) are 2718 Thousand Cubic Meter ("TCM" for short), 3322 TCM & 3425 TCM respectively.
- 26 It is an admitted fact that these Appellants WUAs are getting less water as compared to their entitlements, in spite of adequate yield in the Dhom dam.
- 27 For the purpose of better adjudication of the present appeal, the Authority found it prudent to refer and rely upon some relevant facts which are as under;
- 27.1 The Dhom Dam, a part of Krishna Project, was administratively approved in the year 1966, on river Krishna. The Krishna Project has two stages, Stage-I consists of two dams viz. Dhom dam & Kanher dam and their canal system planned to give irrigation benefits to 74,000 ha & planned annual water utilisation of 23.765 TMC. The Krishna Project Stage - II consists of 5 Lift Irrigation Scheme ("LIS" for short) viz. Kawathe Kenjal, Vasana, Wangana, Dhangarwadi & Hanbarwadi. The former, three LIS are on DLBC whereas the later two LIS are on Arphal canal. The planned annual water utilisation of Krishna Project Stage - II is 5.15 TMC.



- 27.2 The Dhom dam construction was started in the year 1968-69 and was completed in the year 1976. The distribution system was completed in the year 1987. The live storage capacity of the Dhom Dam is 331.10 Mcum (11.69 TMC).
- 27.3 Subsequently, additional schemes were sanctioned to utilize fully, the water share of 599 TMC allocated to the State of Maharashtra. Also, with an intention to distribute the irrigation benefits on large area, dependability of the project is reduced from 75% to 50%.
- 27.4 The Jihe-Kathapur LIS was approved as a part of Krishna Project in the year 1977 to utilize 3.17 TMC of water and to give irrigation benefits to 17,000 ha of land in Khatav taluka and 15,800 ha land in Man taluka. Thus, total command area of Jihe-Kathapur LIS is 27,500 ha. Both the Khatav & Man talukas are drought prone.
- 27.5 Similarly, Dhom-Balkawadi scheme was approved in the year 1995-96. The cropping pattern of this scheme was initially four monthly. Subsequently, in the year 2000, the cropping pattern of Dhom-Balkawadi is made eight monthly with augmentation of 0.93 TMC of water from Nira-Deoghar project. In the 4<sup>th</sup> RAA of Dhom-Balkawadi project, approved on May 30, 2017, the irrigation water use of the scheme is 3.63 TMC, 2.70 TMC from Dhom-Balkawadi storage & 0.93 TMC from Nira-Deoghar project. The ICA as per 4<sup>th</sup> RAA is 18,100 ha. Benefited area is in Bhore (1050 ha), Khadala (4300 ha) & Phaltan (12750 ha). At present, the works required for augmentation of Dhom-Balkawadi scheme by transferring 0.93 TMC of water from Nira-Deoghar project are not undertaken.
- 27.6 In Dhom-Balkawadi scheme, additional storage of 4.08 TMC capacity has been constructed, 13 Km upstream of existing Dhom dam with water made available by reducing the dependability from 75% to 50%. The water availability at 50% dependability is 18.03 TMC and with 75% dependability is 14.25 TMC. Thus, additional water available by lowering the dependability is 4.08 TMC. The water stored in Dhom-Balkawadi dam is released into Dhom dam. The Dhom-Balkawadi canal also off takes from Dhom dam. The gross & live storage capacity

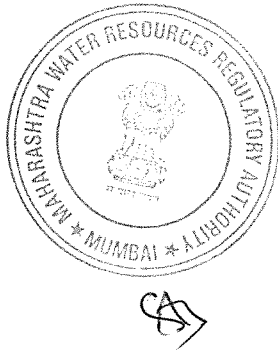


of Dhom-Balkawadi dam are 4.08 TMC & 3.96 TMC respectively. Annual water use of water stored in Dhom-Balkawadi reservoir is 3.96 TMC which includes 2.70 TMC for Dhom-Balkawadi Canal, 0.64 TMC for 5 LIS included in Krishna Project Stage - II, 0.53 TMC for Jihe-Kathapur scheme and 0.09 TMC towards evaporation. The planned annual water use of Dhom-Balkawadi canal system is 3.63 TMC (2.70 TMC from Dhom-Balkawadi storage and 0.93 TMC from Nira-Deoghar project).

- 27.7 As per the integrated planning, as communicated to the CWC by the State Government vide its letter dated October 20, 2001, for utilization of 599 TMC enblock water use during any water year permitted by KWDT, Jihe-Kathapur LIS & Dhom-Balkawadi dam are also the part of the Krishna Project. Total planned water utilization in Krishna Project including Jihe-Kathapur LIS and Dhom-Balkawadi component out of 599 TMC enblock water use, is 34.835 TMC. The component-wise planned water use is as shown in Paragraph 16. The sources identified for this planned water use are;

Dhom Catchment	18.03 TMC
Kanher Catchment	12.66 TMC
Free Catchment Upto Jihe-Kathapur lifting point	3.17 TMC
Regeneration Flow	0.99 TMC
<b>Total</b>	<b>34.85 TMC</b>

- 27.8 As far as Dhom catchment is concerned, to which the present matter is related, the planned water use of the Krishna Project is 18.24 TMC. The details of which are shown in Paragraph 17. The sources identified for this planned water use are as under;



Water available from Dhom catchment at 50% dependable yield upto Dhom dam	18.03 TMC
Augmentation to DRBC from Kudali river by constructing bandhara at Humgaon	0.14 TMC
Nagewadi Dam	0.089 TMC
<b>Total</b>	<b>18.259 TMC</b>



27.9 In the meanwhile, as per G.R. dated November 21, 2002, total 2229 individual lifts have been sanctioned. Out of which 1976 individual LIS are in operation, giving irrigation benefits to 4474 ha. However, these individual lifts sanctioned, have no specific provision in the water planning. As per Paragraph 1 of the said G.R., these lifts are also expected to use water planned for canal flow irrigation and consequently the water for canal irrigation should be curtailed.

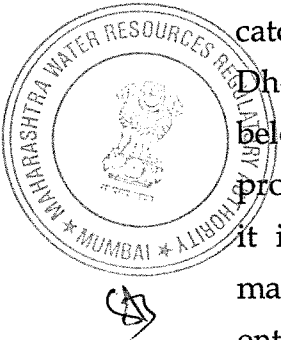
27.10 Similarly, under the provision of the above said G. R. Jal-Laxmi irrigation scheme having water use of 0.306 TMC giving irrigation benefits to 857 ha area on the banks of Krishna River. This water use is also over and above planned use.

27.11 Planned Annual Utilization of Krishna Project which includes Dhom, Kanher and Jihe-Kathapur LIS is 32.085 TMC. The provisions in the project planning for irrigation, drinking & industrial use are 26.868 TMC, 4.80 TMC and 0.417 TMC respectively.

27.12 Planned annual utilization of Dhom Project, which is a component of Krishna Project Stage - I, including evaporation is 11.42 TMC. This includes 7.58 TMC for irrigation, 2.64 TMC for drinking, 0.23 TMC for industry and 0.97 TMC for evaporation.

27.13 These two dams have been constructed in phases on the same river Krishna. Dhom dam construction was started in the year 1966. Subsequently, after realizing that there exists some surplus water, Dhom-Balkawadi dam's construction was started in the year 1996. The catchment area draining the water in Dhom-Balkawadi Dam and Dhom Dam are approximately same. The free catchment of Dhom Dam below Dhom-Balkawadi Dam is very meager. In fact, Dhom-Balkawadi project is planned considering surplus yield at Dhom Dam site. Hence, it is necessary to consider Dhom Complex as one unit for water management purpose rather than considering two independent entities.

27.14 Dhom-Balkawadi dam has independent canal system, originating from same Dhom dam conveying water to 18,100 ha land in Bhor, Khandala, & Phaltan taluka in Nira sub-basin of Krishna basin. The water from



Dhom-Balkawadi reservoir is released into Dhom reservoir first and then let out into Dhom-Balkawadi canals.

27.15 Dhom canal system is old and Dhom-Balkawadi canal system is comparatively new. The discharge carrying capacity of DLBC is reduced considerably due to inadequate maintenance. Also, the structures on the canals are damaged due to inadequate maintenance, resulting into excessive canal losses. Besides this, in the absence of canal structures in good working condition, equitable distribution of water is not possible. The necessary maintenance of the canal and structures could not be done for years together due to non-availability of adequate funds. Thus, canal system is not able to carry design discharge and hence the quota of water is not deliverable, particularly to the entitlement holders at tail end of the canal. Unless the discharge carrying capacity is restored to the original design discharge capacity. This objective of conveying water to the entire length of the tail end of DLBC cannot be achieved.

27.16 Further, permission for lifting water from the reservoir & canals has been given to 2229 individual lift schemes out of which 1976 are presently in operation irrigating 4474 ha of land. These individual LIS and Jal-Laxmi LIS have no separate provisions in the water planning. Permissions have been given under WRD GR Misc. 10.01/(378/ 2001)/IM(Policy) dated November 21, 2002. These LISs are also adversely affecting on the water rights of the Appellants WUAs. It is observed that average inflow required in Dhom system (Dhom Dam & Dhom-Balkawadi Dam together) during the period 2008-09 to 2017-18 is 584.60 MCM (20.64 TMC) as against planned water use of 516.50 MCM (18.24 TMC). It is also observed that the average balance live storage in Dhom dam on 30<sup>th</sup> June i.e. at the end of water year is 57.50 MCM (about 2.0 TMC).



27.17 At present Dhom canal system is fully in use. Also, Jal-Laxmi scheme & individual LIS are in operation. The three LIS viz. Kavathe Kenjal, Wasna & Wangna are commissioned but not operating to their full capacity. Jihe-Kathapur LIS is not yet commissioned. When LIS on DLBC and Jihe-Kathapur scheme will be in operation as per their full

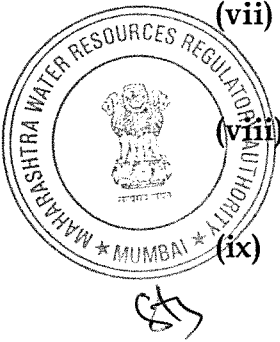


design capacity, the stress on Dhom system is expected to increase further considerably.

### FRAMING OF ISSUES

28 Having considered the nature of the case, the order in appeal passed by the PDRO, the contentions made in the submissions of the parties, the documents placed on record as well as data submitted, following issues arise for consideration of the Authority:

- (i) Whether the Appellants WUAs have locus to challenge the water planning of Dhom-Balkawadi Project on behalf of beneficiaries of the entire Dhom Project?
- (ii) Whether the Appellants WUAs are getting less water as compared to their Entitlements? If yes, what are the prominent reasons & what are the possible solutions?
- (iii) Whether the Dhom irrigation canal system is entitled to get 10.57 TMC of water for irrigation as claimed by the Appellant?
- (iv) Is it appropriate to prevent the release of water in Dhom-Balkawadi canal until Dhom dam is filled to 75% of its capacity?
- (v) Is it necessary to give operating guidelines for distribution of water received in Dhom & Dhom-Balkawadi reservoirs? If yes, what can be the guidelines?
- (vi) Would it be judicious to ban release of water for Dhom-Balkawadi Canal in Rabi and Hot-Weather season?
- (vii) Would it be judicious to ban diversion of water for Dhom-Balkawadi canal in deficit years?
- (viii) Will it be justified to ban lifting of water from canal after 28<sup>th</sup> February every year?
- (ix) Is it necessary to interfere with or set aside the Order of PDRO in Case No. 2/2017 dated May 25, 2018, challenged through the present appeal?
- (x) Whether any specific guidelines or reliefs are required to be given in the interest of the justice to the Appellants?



## FINDINGS OF THE AUTHORITY

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

(i) Whether the Appellants WUAs have locus to challenge the water planning of Dhom-Balkawadi Project on behalf of beneficiaries of the entire Dhom Project?

a) The Respondent Nos. 4 & 5 have submitted that the Appellants are the minor level WUAs and not the WUAs at DLBC or Dhom Project Level WUA. Hence, the Appellants have no jurisdiction to challenge the water planning of the Dhom-Balkawadi project on behalf of beneficiaries of the entire Dhom Project.

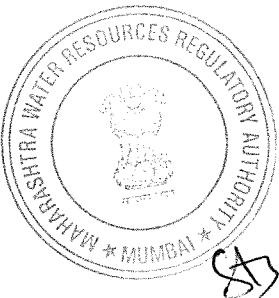
b) Respondent No. 6 has also argued before this Authority on November 19, 2018 that the scope of the application needs to be restricted to redressal of grievances of the Appellants WUAs and their entitlement in Dhom Project.

**Findings (i)** - This Authority is of considered opinion that the Appellant have locus to claim their rightful share to the extent of the entitlements of the Appellants - WUAs though they are not concerned with the overall water planning. Hence, this Authority finds merit, in other issues raised in the Appeal, particularly regarding inadequate supply of water and the appraisal of the reasons thereof, so as to redress the hardship of the Appellants. Hence, the issue is answered in the affirmative to the extent as stated herein above.

(ii) Whether the Appellants WUAs are getting less water as compared to their Entitlements? If yes, what are the prominent reasons & what are the possible solutions?

a) Appellants, during pleadings before this Authority, on September 5, 2018, have pointed out that they do not get full quota of water.

b) The Respondent No. 4, in compliance to queries raised by this Authority, during hearing on September 5, 2018 has agreed on Affidavit, dated October 11, 2018 that the Appellants have received less water than their quota.



Findings (ii) as to the First Part : This Authority, from the data and facts on record herein above, has also observed that inspite of the fact that water made available to Dhom Canal is more than its planned water use of 7.58 TMC (214.78 MCM), since 2011-12 except in the year 2015-16, which was a deficit year, the quota of water actually delivered to the Appellant's WUAs is less as compared to their entitled quota. Thus, the answer to the first part of the issue under consideration is in the affirmative.

c) The Appellants through their Appeal and through their submissions in the pleadings emphasized the following reasons for less supply of water;

c-1) Diversion of more water to Dhom-Balkawadi Canal.

c-2) Lifting of water by canal lifts, in Hot Weather season although lifting permission to these lifts is only for Kharif & Rabi seasons.

d) The Respondent No. 4, through its submissions & pleadings before this Authority submitted the following reasons for less supply of water to the Appellants;

d-1) The Appellants WUAs are at tail end of the DLBC.

d-2) The Dhom dam was completed in the year 1976 and irrigation was started. In the year 1987, the canal system was completed in all respect. Thus the Dhom canal system is very old and its discharge carrying capacity is reduced due to inadequate maintenance. Reduced discharge capacity of the canal results in longer rotation period and lesser number of rotations apart from excessive loss of water due to seepage. Also, 522 no. of structures out of 629 are under repair. Adequate & timely maintenance of the canal system could not be possible for want of necessary funds.

d-3) The beneficiaries of the project are reluctant to pay water charges regularly. Sugar factories do not co-operate, in deducting water charges from sugarcane bills of the beneficiaries and depositing it to Respondents. Consequently, the recovery of water charges is meager.



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d-4) Inefficient irrigation management due to inadequate staff. There exists a 58% vacancy. Only 76 posts out of 242 are filled.

d-5) Canal lifts are operated in Hot Weather season, although they are planned for eight monthly operation. An effective control on unauthorized lifting of water cannot be done due to shortage of staff.

**Findings (ii) as to the remaining part of the issue** -This Authority from the data and facts on record has observed the following prominent reasons for adverse influence on supply of legitimate quota of water to the Appellants;

- 1) There is a good rainfall in the catchment and in most of the years, availability of water in the dam is sufficient to fulfill planned utilization. However, the discharge carrying capacity of the canal system is reduced as compared to its design capacity, due to lack of adequate maintenance for want of necessary funds. Further, the structures on the canal are damaged due to inadequate maintenance resulting into excessive canal losses as compared to that considered in water planning, adversely affecting the water rights of the Appellants.

State Water Policy (Para 9.0) directs the responsible authorities, including River basin Agencies, to effectively implement the cost efficient, timely & technically sound maintenance program for sustainable functioning of the water infrastructure. This needs to be attended on priority.

- 2) Appellants WUAs are at tail reach of the DLBC.
- 3) There are 1976 individual lift irrigation schemes (154 on reservoir, 502 on DLBC & 1320 on DRBC) irrigating 4474 ha of area which is 13.56% of planned irrigation area of 32,685 ha. Also, the Jal-Laxmi scheme supplying water to 857 ha (Annual water use 8.67 MCM / 0.306 TMC) is in operation. The permission to these individual lifts and Jal-Laxmi scheme have been given under the provision in G.R. dated November 21, 2002. However, the water use of these individual lifts and Jal-Laxmi scheme has not been considered in the water planning of the project. Hence these lifts are bound to affect the Appellants water rights adversely.



- 4) Inadequacy of staff required for effective water management.
- 5) The release of more water in Dhom-Balkawadi canal than its sanctioned quota. However, it is also observed that additional quota is given to Dhom-Balkawadi canal only after fulfilling the legitimate quota of Dhom canal system at its head. Thus, it can be considered as sharing surplus water in good years and cannot be considered as a prominent reason for adverse impact on Appellants WUAs.

Hence, the issue is dealt with as per the findings recorded herein above.

(iii) Whether the Dhom irrigation canal system is entitled to get 10.57 TMC of water for irrigation as claimed by the Appellants?

a) Appellants have argued that water use planning as per the DPR of water available in Dhom dam is as follows;

• For irrigation of 32955 ha area	10.57 TMC
• For Lift schemes	3.00 TMC
• For industrial & domestic use	0.24 TMC
• Evaporation	0.97 TMC
<hr/>	
Total	14.78 TMC

Appellants have supported their arguments with some documents received by them under RTI.

b) The Respondent No. 4 has argued that the provision for Dhom canal irrigation in the 4<sup>th</sup> RAA of Krishna Project approved by the State Government on February 13, 2004 is 7.58 TMC.

Findings (iii) - On scrutiny of the record, it is observed that

- 1) Krishna project has undergone series of changes since its inception.
- 2) The document submitted by the Appellants in support of their arguments is the planning which was approved by the State Government on July 2, 1992.
- 3) Thereafter in the year 1998, the cropping pattern of Dhom & Kanher were diluted from 141% to 126% and perennials crops were reduced from 10% to 6%.



- 4) On October 20, 2001, the State Government has communicated its overall planning of water use in Krishna basin to CWC. In this planning, the water use of Krishna project including Jihe-Kathapur scheme is 32.085 TMC.
- 5) The provisions in the 4<sup>th</sup> (latest) RAA approved on February 13, 2004 are consistent with the information submitted to CWC on October 20, 2001. The provision for irrigation of Dhom system (32925 ha) in the 4<sup>th</sup> RAA of Krishna Project (Page 79) is 7.58 TMC.

In the considered opinion of this Authority, the planned annual utilization of the projects, contemplated in Krishna basin, by the State of Maharashtra, out of enblock 599 TMC use, during any water year, permitted by the KWDT, as communicated by the State Government to CWC on October 20, 2001 is obligatory on part of the State. In this planning, water use of Krishna Project is shown as 32.085 TMC (26.868 TMC for irrigation + 4.80 TMC for drinking and 0.417 TMC for industry). Further, in this planning, water use considered for irrigation on the Dhom canal is 7.58 TMC. Thus, the water allocation of Dhom canal for irrigation is 7.58 TMC.

In light of above, this Authority is of the view that the water allocation of Dhom canal for irrigation is not 10.57 TMC but it should be 7.58 TMC. Thus, the issue has been answered in the negative accordingly.

(iv) Is it appropriate to prevent the release of water in Dhom-Balkawadi canal, until Dhom dam is filled to 75% of its capacity?

- a) The Appellants have argued that Dhom dam is constructed in the year 1977 with 75% dependability. Thereafter, in the year 2006, the Dhom-Balkawadi dam is constructed on surplus water, with 50% dependability. On this basis, the Appellants have prayed to prevent the Respondents from releasing water in Dhom-Balkawadi canal, until Dhom dam is 75% filled.
- b) The Respondent No. 4 has submitted that the water planning of both Dhom as well as Dhom-Balkawadi project is based on 50% dependability. He has further argued that water for Kharif can be



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released as per G.R. dated March 7, 2001 after water contents in both dams are reached 33%.

**Findings (iv)** - The Authority has observed from the 4<sup>th</sup> (latest) RAA of Krishna Project & 4<sup>th</sup> (latest) RAA of Dhom-Balkawadi project that both projects are based on 50% dependable yield. Further, this Authority has observed that there is a provision of 1.42 TMC of Kharif water use in the project report of the Dhom-Balkawadi project. Hence, this Authority is of the view that water for Kharif irrigation can be released from both Dhom canals as well as Dhom-Balkawadi canals after combined live storage reaches to 33% of their combined designed live storage.

Thus, the answer to the issue under consideration is in the negative.

(v) Is it necessary to give operating guidelines for distribution of water received in Dhom & Dhom-Balkawadi reservoirs? If yes, what can be the guidelines?

a) The Appellants has prayed for deciding the water allocation of Dhom & Dhom-Balkawadi project on the basis of the provisions in the Draft Project Report and raised some issues regarding the operation of the Dhom irrigation system.

b) This Authority has earlier on June 12, 2017 remanded back the earlier application (Case No. 4 of 2016) of the Appellants with some direction to the PDRO. The relevant directions at Sr. No. 2 & 3 were;

*"2) PDRO is further directed to deliver self - explanatory order addressing all relevant issues posed in the Appeal and also those issues which will be argued before him. The order is expected to serve as operating guidelines to the field staff and shall also convey relevant and meaningful information to various stakeholders regarding their water rights. The PDRO shall issue order within a month after the hearing is over.*

*3) PDRO shall also assess whether the Appellants WUAs are getting their entitled quota of water, and if not (after assessing the reasons thereof) shall issue necessary directions so that Appellant's right will be protected".*



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However, PDRO failed to address these issues in his Order dated May 25, 2018.

**Findings (v)**- This Authority has observed that the catchment, draining the water into the Dhom and Dhom-Balkawadi reservoir, is approximately same. Dhom-Balkawadi project is planned considering surplus yield at Dhom Dam location. Further, the canals of both Dhom and Dhom-Balkawadi off take from the Dhom reservoir. The utilization planning of the yield available at 50% dependability from Dhom catchment upto Dhom Dam site, using Dhom & Dhom-Balkawadi reservoirs, for various project components is as mentioned in Paragraph 17. Hence, this Authority is of the opinion that although, these project components have been approved separately and constructed in phases, they need to be managed as one complex. However, in order to achieve sustainable and judicious distribution of water amongst various categories of users under different project components, this Authority finds it prudent to have certain fixed operating guidelines. Thus, the answer to the first part of the issue under consideration is in the affirmative.

**Findings (v) in respect of second part of the issue -**

Having answered the first part of the issue affirmatively, this Authority is of the considered opinion that following relevant facts and provisions needs to be considered while giving guidelines about sharing the water;

- 1) As per the KWDT - I Award, the State of Maharashtra is entitled to use 599 TMC of water in its territory of Krishna Basin, during any water year. In the overall water use planning of the State of Maharashtra, within it's allocated water quota of water, as communicated by the State Government, to the Central water Commission, the allocation to the Krishna Project with Dhom, Kanher & Jihe-Kathapur LIS is 32.085 TMC.
- 2) Similarly, the water allocation for Dhom-Balkawadi Project which is also a part of Krishna Project is 2.75 TMC (2.70 TMC for irrigation & 0.05 TMC for evaporation)
- 3) The provisions cited in "1" & "2" above are of mandatory nature and supersede any of the provisions in the earlier Draft Project Reports.



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- 4) Further, the provisions in the 4<sup>th</sup> RAA of the Krishna Project and 4<sup>th</sup> RAA of Dhom-Balkawadi project are consistent with the provisions at "1" & "2" above.
- 5) Annual planning of drinking water utilization from Dhom catchment at 50% dependable yield is as mentioned in Paragraph 17 above as referred in the DATA ON RECORDS.

Thus, considering the provisions cited above, this Authority is of the opinion that guidelines for sharing of water should be;

- (i) Project component wise provisions mentioned in Paragraph 17 above needs to be adhered to in normal years. Further, as only some part of Kharif use is considered in reservoir capacity planning, the water use in kharif and in remaining part of the year need to adhere to their respective season-wise provisions in the project planning.
- (ii) the sharing of surplus water in good years and sharing of water deficit in deficit years amongst various categories of users needs to be done as per the formula provided in Paragraph No. 8 of the Criteria evolved by this Authority on September 22, 2017 which is available on the website of the Authority ([www.mwrra.org](http://www.mwrra.org)). Water so available, for irrigation use, needs to be distributed amongst various project components in the proportion of their planned water use as indicated in Column 5 of the table in Paragraph 17 above subject to overall water utilization restriction set by the KWDT.
- (iii) Further, in view of the provisions in the Article 21 of the Constitution and provisions in Paragraph 2.2.3 of the State Water Policy 2003, the State is duty bound to supply water for drinking purpose to all citizens on top priority, this Authority is of the opinion that the water for drinking purpose can be supplied without limitation of the command boundaries. The concept of command area is restricted to irrigation water use. However, so as to ensure efficient water use, the water for drinking shall be supplied either by pipelines or by tankers. Supply of water for drinking purpose, by releasing into river or



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canal results in huge wastage of water. Hence, it should be avoided.

Hence, the Authority finds it prudent to issue above guidelines for sustainable management of Dhom Complex and ensure legitimate supply of water to the Appellants.

**(vi) Would it be judicious to ban release of water for Dhom-Balkawadi Canal in Rabi and Hot-Weather season?**

a) The Appellants have requested this Authority to declare Dhom-Balkawadi project as four monthly and ban release of water in Dhom-Balkawadi canals in Rabi & Hot Weather season. The Appellants have supported their arguments with following reasons;

a-1) As per the original DPR of Dhom-Balkawadi project, which was approved in the year 1996, there is provision for only four monthly Kharif irrigation.

a-2) Dhom-Balkawadi project is made eight monthly in the year 2000 by considering 0.93 TMC water from Nira-Deoghar project. However, there is no provision in the DPR of Nira-Deoghar project for supplying 0.93 TMC water to Dhom-Balkawadi canals for irrigation purpose. Further, the scheme for augmentation of Dhom-Balkawadi canal with water from Nira-Deoghar project is not undertaken for construction.

a-3) The provisions in KWDT award should be followed

a-4) There is no provision of drinking water in the DPR of Krishna Project.

a-5) There is no permission of Central Water Commission for eight monthly water planning of Dhom-Balkawadi project.

b) The Respondent No. 4 has denied the arguments of the Appellants and submitted vide its written statements dated July 30, 2017 as follows;

b-1) The Appellants are WUAs at minor level. The canal level & project level WUAs are not yet registered. Hence, Appellants WUA



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has no jurisdiction to challenge the planning of entire Dhom project or Dhom-Balkawadi project.

b-2) The Maharashtra Krishna Valley Development Corporation has revised the four monthly water planning of the Dhom-Balkawadi project as eight monthly vide its Order dated July 4, 2002. The same water planning is also confirmed by the State Government while according 4<sup>th</sup> Revised Administrative Approval ("RAA" for short) to the Dhom-Balkawadi project vide G.R. dated May 30, 2017.

b-3) As per the 4<sup>th</sup> RAA, water use of Dhom-Balkawadi project is 3.63 TMC. The season-wise split up of the water use is 1.42 TMC in Kharif, 2.21 TMC in Rabi. In the overall water use planning of 3.63 TMC, 0.93 TMC water is to be brought from Nira-Deoghar project and 2.70 TMC is from Dhom-Balkawadi reservoir. Thus, the Dhom-Balkawadi dam has provision of 1.28 TMC (2.70 - 1.42) for Rabi irrigation.

b-4) The State Government is going to invest on Nira-Deoghar canal to Dhom-Balkawadi canal link. Hence, Central Water Commission's clearance is not required for converting four monthly cropping pattern of Dhom-Balkawadi project to eight monthly.

b-5) There is no breach of KWDT award as the water utilization is within the en-block share of the State.

b-6) Water is being released for irrigation in Kharif & Rabi seasons. However, in the years 2012-13, 2013-14 & 2016-17 as per directions of Canal Advisory Committee and District Collector - Satara, the water for drinking purpose was released from Dhom-Balkawadi dam in Hot-Weather season.

b-7) Due to availability of surplus water, the water use in both projects during the year 2012-13 to 2017-18, except in year 2015-16, which was draught year, is more than corresponding project planning.

**Findings (vi)-** After perusing the annual water utilization planning of water from Dhom catchment at 50% dependability, as mentioned in paragraphs 17 above, this Authority is of the view that as there is a provision of 1.28 TMC of water for Rabi irrigation through Dhom-Balkawadi canal from the water in Dhom complex. Hence, the release of



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water in Dhom-Balkawadi canals in Rabi season cannot be banned. However, there is no provision for Hot Weather irrigation under Dhom-Balkawadi canal. Hence, no water for irrigation be released through Dhom-Balkawadi dam for Hot Weather irrigation.

Thus, the answer to the question under consideration is partly in the affirmative.

(vii) Would it be judicious to ban diversion of water for Dhom-Balkawadi canal in deficit years?

- a) The Appellants have prayed for banning the diversion of water for Dhom-Balkawadi canals in deficit years.
- b) The Respondent No. 4 has brought to the notice of this Authority the fact that water planning of Krishna Project including Dhom-Balkawadi has provision of 2.75 TMC water to be utilized in through Dhom-Balkawadi canal.

Findings (vii)- The Authority is of the considered opinion that the prayer for banning the diversion of water for Dhom-Balkawadi canal in deficit years cannot be accepted in view of the provisions in the Paragraph 2.8 of the State Water Policy, 2003. The Policy directs to share the water deficit equally. Further, the Act also advocates judicious and equitable distribution of water.

Thus, the answer to the question under consideration is in the negative.

(viii) Will it be justified to ban lifting of water from canal after 28<sup>th</sup> February?

- a) The Appellants have argued that lifts on DLBC are sanctioned for eight monthly cropping pattern and due to lifting of water by these lifts in Hot-Weather season, the Appellants are adversely affected.
- b) The Respondent No. 4 has also agreed to the fact that the lifts on DLBC are planned for eight monthly irrigation. However, they lift water in Hot-Weather too and the control is not possible due to



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inadequate staff. He further clarified that individual lifts have been sanctioned as per G.R. dated November 21, 2002.

**Findings(viii)** - This Authority has observed that, the individual lift permissions given vide provision in G.R. dated November 21, 2002 on submergence, canals including Jal-Laxmi scheme have no provision in the water planning. Hence, they adversely affect the water entitlements of the Appellants. Due to water use by these lifts, the quota of Dhom canal automatically gets reduced and the Appellants WUAs who are at the tail end of the DLBC consequently suffer. Hence, the Respondent Nos. 4 & 5 should strictly control water lifting by individual lift operators.

This Authority is of the view that individual water lifts on submergence and Dhom canals is one of the prominent reasons behind inadequate water supply to the Appellants. Hence, while answering the issue in the affirmative, this Authority finds that following actions are necessary to protect the legitimate quota of the Appellants;

- a) Lifting of water by individual lift operators must be strictly banned after 28<sup>th</sup> February every year.
  - b) The permission of individual lift operators who are not observing the conditions stipulated in the G.R. dated November 21, 2002 i.e. installation of water meters, practicing drip irrigation etc. needs to be cancelled immediately.
- Individual lift operators must not be allowed to lift more water than their sanctioned season-wise water quota.

Hence, the answer to the question under consideration is in the affirmative.

**(ix) Is it necessary to interfere with or set aside the Order of PDRO in Case No. 2/2017 dated May 25, 2018?**

- a) The Appellants have approached this Authority, saying that the directions of PDRO dated May 25, 2018 have no clarity and prayed for setting aside these directions
- b) The Respondent No. 6 has also requested to set aside PDRO's Orders.



Findings (ix) - This Authority has observed that the PDRO, while passing the Order has ignored the direction of this Authority dated June 12, 2017.

Earlier this Authority while reverting the Application of the Appellants (Case No. 4 of 2016) has clearly directed the PDRO *“to deliver self - explanatory order addressing all relevant issues posed in the Appeal and also those issues which will be argued before him. The order is expected to serve as operating guidelines to the field staff and shall also convey relevant and meaningful information to various stakeholders regarding their water rights”*.

The PDRO was also directed to *“assess whether the Appellants WUAs are getting their entitled quota of water, and if not (after assessing the reasons thereof) shall issue necessary directions so that Appellant’s right will be protected”*.

The PDRO has ignored the above mentioned directions of this Authority. The Order passed by PDRO -has no clarity. The PDRO has not gone into the details of the reasons behind inadequate water supply to the Appellants. He has not given adequate operating guidelines. Hence, this Authority is of the considered opinion that the Order passed by the PDRO dated May 25, 2018 is liable to be set aside and interfered with the suitable directions as recorded in the findings as well as the operative part of the Order.

Thus the answer to the issue is in the affirmative.

(x) Whether any specific guidelines or reliefs are required to be given in the interest of the justice to the Appellants?

- a) It is a fact on record that the Appellants WUAs have not received their quota of water, even in years when there was adequate water in the reservoir, due to reasons which have already been mentioned in findings (ii) above.
- b) Dhom dam is a multi-purpose project. It is expected to provide water for various water use sectors viz. drinking, industry and agriculture. Further, water allocation of agriculture sector to be shared in different project components viz. DLBC, DRBC, Dhom-Balkawadi canals, 3 -



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Government LIS on DLBC, individual lifts on submergence & canals, Jihe-Kathapur LIS. Hence, it is necessary to have a clear understanding about water rights of different beneficiary groups getting benefits.

- c) The DPRs of both Dhom & Dhom-Balkawadi projects have been revised three times. As such there is a confusion amongst the beneficiaries about their water rights.
- d) The Dhom system is overstressed & has to be managed with specific set of guidelines which should be judicious and transparent.
- e) Hence, this Authority is of the opinion that specific guidelines need to be given for distribution of water available in Dhom system (including Dhom-Balkawadi component).

Thus, the answer to the issue is in affirmative and the findings thereof have been recorded in the operative part of the present Order.

#### DIRECTIONS

30 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 sets aside the Order passed by the PDRO and further directs to :

A) The Respondent Nos. 4 & 5 as under:

- (i) To strictly follow "tail to head" irrigation as stipulated in Section 12(7) of the Act and to ensure delivery of legal water rights of the Appellants WUAs.
- (ii) To sign and execute the agreements with Appellants WUAs if not already signed or renewed in case the agreements though signed but are time barred.
- (iii) To publish the list of individual lift permission holders along with all necessary details in prescribed format circulated by this Authority on February 20, 2019 to whom permissions have been given to lift water from submergence & canal under provisions in



G.R. dated November 21, 2002 and to ensure that no unauthorized water or water in excess of permitted quota is being lifted from the Dhom reservoir and its canals.

- (iv) To ensure that no water is being lifted from Dhom reservoir & its canals after 28<sup>th</sup> February, as Government LIS on DLBC as well as individual lifts has eight monthly water rights.
- (v) To monitor and ensure the compliance of all conditions stipulated in G.R. dated November 21, 2002 viz. installation of water meters, practicing drip irrigation etc. under which the permissions to individual lift owners are given.
- (vi) To monitor and limit the quantity of water being lifted by individual lift owners within their season-wise sanctioned quota of water.
- (vii) To ensure that in normal years, the diversion of water in the Dhom-Balkawadi canal be restricted to 2.70 TMC with season-wise restriction of 1.42 TMC in Kharif season and 1.28 TMC in Rabi season. Further, Dhom-Balkawadi project being eight monthly, the release of water in Dhom-Balkawadi canal for irrigation purpose be stopped after 28<sup>th</sup> February.
- (viii) To ensure that distribution of water available in Dhom and Dhom-Balkawadi reservoirs, in integrated manner, assuming one single complex. In Normal year, the sharing of water available in the Dhom Complex, amongst various categories of users and amongst various project components must be done in the ratio of their water use considered in the water planning and as reproduced herein above in Paragraph 17.

The sharing of water deficit in deficit years as well as sharing of surplus water in good years amongst various categories of users needs to be done as per the formula provided in the Paragraph No. 8 of the Criteria evolved by this Authority on September 22, 2017, which is available on the website of the Authority ([www.mwrra.org](http://www.mwrra.org)). Water so available, for irrigation use, needs to be distributed amongst various project components, in proportion of their planned water use as indicated in Column 5 of the table in



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Paragraph 17 above subjected to overall water utilization restriction set by the KWDT.

**B) To the State Government and Executive Director as under :**

- (i) To make available adequate funds for restoration of designed discharge carrying capacity of the Dhom canal and repairs of the canal structures, in view of the provisions in Section 11(q) and 12(4) of the MWRRA Act, 2005 read with Paragraph 9 of the State Water Policy 2003.
- (ii) To plan and implement time-bound program for restoration of designed discharge carrying capacity of the Dhom canals, and repair of canals including structures on it to reduce the water losses to the minimum.
- (iii) To fill the vacancies of the management staff on this project on priority, which is required for effective control on efficient and equitable distribution of water in this project.

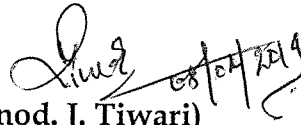
The Appeal is accordingly disposed off with no costs subject to filing of the compliance of directions issued herein above.

Delivered on April<sup>3</sup>, 2019

List the matter on June 11, 2019 for review of the compliance of the implementation of the directions issued herein above.



(S. T. Sangle)  
Member (Economics)



(Vinod. J. Tiwari)  
Member (Law)



(V. M. Kulkarni)  
Member (WRE)



(K. P. Bakshi)  
Chairman

