



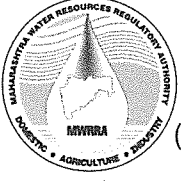
सत्यमेव जयते

# 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)



स्वातंत्र्याचा अमृत महोत्सव

ORDER NO. 03 / 2022

(In Case No. 3 of 2021)

In the Matter of

A Petition filed by Gurudev Siddha Peeth, Ganeshpuri, District Thane for re-categorizing and levying water charges applicable to township to a public charitable trust located in village Ganeshpuri

Gurudev Siddha Peeth,  
Through Shri. Shirish Thakkar,  
P. O. Ganeshpuri, Taluka Bhivandi,  
District Thane - 401206

.....Petitioner

V/s.

- 1) Executive Engineer,  
Thane Irrigation Division,  
Kalwa, Thane 400 605.
- 2) Chief Engineer,  
Konkan Region, Water Resources Department,  
Mumbai - 400 023.

.....Respondents



*(Signature)*

Coram : Shri. Sanjay D. Kulkarni, Member (WR.Engg.)  
CA. Shwetali A. Thakare, Member (Economics)  
Adv. Dr. Sadhana S. Mahashabde, Member (Law)

Date : May 10, 2022

### BACKGROUND

1. Gurudev Siddha Peeth (herein after referred as Petitioner) is Public Charitable Trust formed in Year 1962 at Village Ganeshpuri, Taluka Bhivandi, District Thane in the jurisdiction of Group Grampanchayat of Ganeshpuri. The Trust has a residential ashram to facilitate study and practice Siddha Yoga Teachings. It holds study courses, intensives for Yoga students. The ashram follows Gurukul pranali for stay, study and practice within its premises.
2. Water Resources Department (WRD), then Irrigation Department, Government of Maharashtra vide Order dated 28/04/1992 had granted permission to the Petitioner to lift 46 Million Cubic Feet (Mcft) [1.30 Million Cubic Meter (Mcum)] water i.e. 39 Mcft [1.10 Mcum] for irrigation use and 7 Mcft [0.20 Mcum] for domestic use from Usgaon Dam, Taluka Bhivandi, District Thane for 18 years. The trust had its own pumping station and jackwell at Usgaon dam site. The Petitioner and Executive Engineer, Thane Irrigation Division – Respondent No. 1 for WRD entered into an agreement which was renewed from time to time. In the Year 2017, WRD had reviewed Petitioner's last 10 years water use and reduced its allocation / reservation to 36.02 Mcft [1.02] (16.44 Mcft [0.47 Mcum] for irrigation and 19.58 Mcft [0.55 Mcum] for domestic use). Accordingly, the Petitioner and Respondent No. 1 entered into an agreement on 12/06/2017. It is valid from 18/04/2017 to 17/04/2023.
3. The Petitioner was billed for water drawn by Respondent No. 1 regularly and Petitioner had paid on time. However, Respondent No. 1 vide letter dated 20/01/2021 stated that the Petitioner was charged as 'Grampanchayat' but as per Maharashtra Water Resources Regulatory Authority (MWRRA) Order No. 01/2018, Petitioner should be charged as 'Townships developed by private or Non-Governmental organisations -



charged at five times rates of Municipal Corporations'. Accordingly, a bill of Rs. 20,26,256/- from February 2018 to October 2020 was issued.

4. The Petitioner, being aggrieved by this demand, approached Chief Engineer, Konkan Region, Mumbai - Respondent No. 2 in February 2021 and submitted that the Petitioner Trust is not a Township as per Maharashtra Regional & Town Planning (MRTP) Act, 1966. The decision of charging Petitioner Trust as 'Township' ought to be reconsidered and revoked. As there was no response from the Respondents, the Petitioner had approached this Authority and filed Petition on 05/05/2021.

#### GIST OF THE PRAYERS

5. The Petitioner, through its Petition has prayed for following reliefs:
  - i) Declare as arbitrary, unjust, unreasonable and invalid, the re-categorisation of Ashram and Buildings owned by the Petitioner - Trust as 'Township' as also the Bills demanding charges at higher of Water-Tariff that too with effect from February 2018;
  - ii) Set aside the impugned bills of charges directing restoration of Tariff category as applied earlier;
  - iii) Grant such other relief as this Authority may think appropriate having regard to the facts and the circumstance of the case.

Interim Relief - to grant stay of recovery of the demand arising out of the impugned Bills till the matter is finally disposed of.

#### THE PROCEEDINGS BEFORE THIS AUTHORITY

6. After filing of the Petition, the matter could not be taken up due to ongoing Covid-19 pandemic. The Authority vide its letter dated 28/10/2021 directed all the Respondents to file their Parawise Affidavit in Reply. However, there was no compliance from the Respondents. Thereafter, this Authority conducted two hearing in the matter i.e. on 04/03/2022 and 07/04/2022. The Authority gave fair and equal opportunities to the parties to present their case on merit and with the



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consent of parties finally heard the matter for disposal in the interest of justice.

### GIST OF THE FIRST HEARING ON 04/03/2022

7. Before this hearing, Respondent No. 1 had filed Affidavit in Reply dated 28/02/2022. The Respondent submitted that Petitioner should have approached the Primary Dispute Resolution Officer (PDRO) and appeal before this Authority against decision of PDRO. The Petitioner has skipped this remedy and approached this Authority. Therefore, the Petition is not maintainable. Further, Para 4 & Para 5.3 of Annexure 2 of this Authority's Order No. 01/2018 dated 11/01/2018 reads as below;

*Para 4) Townships developed by Private or Non- Governmental organisation will be charged at 5 times the applicable rates stipulated for the municipal corporations.*

*Para 5.3) During the construction phase of commercial entity, private colonies, townships; the water use will be charged at industrial (process) rate and after completion of the construction (i.e. after receipt of Occupation Certificate), water use will be charged as per the provisions in Para-4. If both uses are concurrent, different meters to be installed and assessments to be done accordingly.*

Also, as per Clause 4 of Agreement dated 12/06/2017, the Petitioner Trust had agreed to supply water to residential colonies constructed by Petitioner which reads as below;

*Clause 4) The Trust shall use the water drawn from the said source for purpose of the said Land and for supply to the residential colonies constructed by the trust entities within the area of the said Land for providing housing to the employees, workers and devotees (hereafter referred as the residential colonies)*

Therefore, the Petitioner was charged as 'private colony' for which applicable rate is five times rates of Municipal Corporation. The Respondent further submitted that the entire Petition is misconceived and they are merely implementing this Authority's Order. The Petitioner vide its application dated 03/03/2022 had requested for adjournment of



hearing for two weeks as he needed time to study and file response on the Respondent's Affidavit in Reply which he had received on 02/03/2022.

8. The Authority had conducted this hearing by Video Conferencing through Google Meet on 04/03/2022. This hearing was attended by Shri. Shirish Thakkar for Petitioner, Adv. Aaditya Bapat - Advocate for Respondents and Shri. Narendra Mahajan - Executive Engineer, Thane Irrigation Division, Thane for Respondent No. 1 & 2.
9. During the hearing, Adv. Aaditya Bapat has submitted that he is representing for Respondents. The Authority stated that his Vakalatnama has not been filed and directed Respondent to file Vakalatnama.
10. The Authority has stated that the Authority has received Petitioner's Application by email dated 03/03/2022 wherein he has requested for adjournment of this hearing for two weeks. Shri Shirish Thakkar - Petitioner has stated that he has received Respondent's Affidavit in Reply on 02/03/2022 and thus he needs two weeks of adjournment to file rejoinder.
11. The Authority has inquired about the reason for delay in filing of Affidavit in Reply even though letter was issued dated 28/10/2021. In reply, Shri. Narendra Mahajan - Respondent No. 1 has submitted that Konkan Irrigation Development Corporation under which his office comes has recently appointed advocates on their panel and therefore, there was delay in filing the reply. The Authority has expressed its displeasure towards casual approach of the Respondents. Shri. Narendra Mahajan has apologised for the delay.
12. On inquiry about the Agreement, Shri. Narendra Mahajan has submitted that present agreement is valid till 2023 which is part of Petition. The Petitioner Trust was established in 1992 and entered into an agreement for water allocation from 1993 onwards. He further submitted that the Petitioner is being charged as "Township" from 2018 onwards. Adv. Aaditya Bapat - Advocate for Respondents submitted that Gurudev Siddha Peeth is an Aashram which is kind of private colony and as per this Authority's 2018 Tariff Order, rates applicable to the Townships have been charged.



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13. Shri. Shirish Thakkar - Petitioner has submitted that Gurudev Siddha Peeth is just like Ramakrishna Pranhans Mission and is an Aashram not Township. Devotees come in Aashram, render their services (Seva) and reside in Aashram for a few months. Therefore, it should not be termed as Township and should not be charged accordingly with retrospective effect.
14. Having heard the parties to the litigation, the Authority issues following directions;
  - i. The Petitioner should file Rejoinder on the Respondents Affidavit in Reply within two weeks and the copy of same should also be given to Respondents in advance.
  - ii. The Respondents should file Affidavit on year-wise Allocation quota of Petitioner and rates levied from time to time. If affidavit is not filed within two weeks, a cost will be imposed.

#### **GIST OF THE SECOND & FINAL HEARING ON 07/04/2022**

15. Before this hearing, as per the directions of this Authority in the previous hearing, Respondent No. 1 vide letter dated 04/03/2022 had submitted the information related to appointment of Adv. Aaditya Bapat and WRD's letters related to water allocation to the Petitioner. The Respondent No. 1 had also filed Affidavit dated 28/02/2022 on the allocation quota of Petitioner and rates levied from time to time as per the permissions given by the WRD and Government Resolutions (GR) issued by WRD regarding water tariff respectively. The Affidavit also encloses Letter of Authorisation to represent Adv. Aaditya Bapat, Counsel to represent the Respondents.
16. The Petitioner, as per the directions of this Authority in the previous hearing, had filed Rejoinder dated 31/03/2022. The Petitioner submitted that it is well within its right to approach this Authority against Respondent's contention about maintainability of Petition and also as per Para 15 of this Authority's Order No. 01/2018. Against contention about residential colonies, the Petitioner submitted that Petitioner has never transferred ownership of or lease out any buildings of the Aashram to



anyone. It is not a commercial activity to develop township. Therefore, Respondents interpretation of Para 4 & Para 5.3 of this Authority's Order No. 01/2018 is not applicable to the Petitioner's case.

17. The Authority had conducted this hearing in Person on 07/04/2022. This hearing was attended by Shri. Shirish Thakkar and Smt. Anjalee Yajnnik for Petitioner, Adv. Aaditya Bapat - Counsel for Respondents and Shri. Narendra Mahajan - Executive Engineer, Thane Irrigation Division, Thane for Respondent No. 1 & 2.
18. On inquiry of the Authority about Petitioner being charged as 'Township', Adv. Aaditya Bapat submitted that the Respondents vide their Affidavit in Reply dated 28/02/2022 had given explanation about the Petitioner being charged as 'private colonies' as per Para 4 & Para 5.3 of this Authority's Order No. 01/2018 and as per Clause 4 of Agreement dated 12/06/2017 wherein it is referred as "the residential colonies" constructed by the Trust.
19. In reply, Shri. Shirish Thakkar submitted that Petitioner is a Trust and had Aashram at Ganeshpuri. The residential areas of the Aashram are owned by the Trust and not by any individual, so Aashram cannot be termed as township or private colonies.
20. On inquiry of the Authority about PDRO, Shri. Shirish Thakkar submitted that the Petitioner had approached Chief Engineer - Respondent No. 2, who is PDRO in the matter, vide letter dated 01/02/2022 but there was no reply. Therefore, Petitioner has approached this Authority and also as per Para 15 of this Authority's Order No. 01/2018 about powers to remove difficulties in implementation, as Petition is regarding difficulties in Bulk Water Tariff.
21. Regarding working and charging, Shri. Shirish Thakkar submitted that there are 15-20 employees of Aashram & about 130 people including him do the 'Seva'. The Aashram had Dormitories, Apartments & Bungalows for devotees & students and Aashram charges are nominal or paid as per the wishes of the occupant / devotee which clarifies that these are not commercial activities. The Petitioner is a Public Charitable Trust and organises charitable activities such as medical camps for tribal in the



*Shirish Thakkar*

vicinity of Ganeshpuri. He also submitted written submissions before this Authority.

22. Regarding water charges to the Petitioner, Adv. Aaditya Bapat submitted that the Respondents are charging the Petitioner as Domestic water user from 1993 onwards. However, as per this Authority's Order No. 01/2018 dated 11/01/2018 wherein there is mention of separate charging to commercial entity, private colonies, township, the Petitioner was charged five time the applicable rate of Municipal Corporation. The details & copy of relevant GR were given in their Affidavit in Reply dated 30/03/2022.
23. In the end, the Authority had noted all the submissions made by both parties and closed the matter for final hearing.

#### FRAMING OF ISSUES

24. This Authority, having considered the contentions made in the Petition & submissions of the parties, the documents placed on record, following relevant issues are drawn for consideration and adjudication:
  - (i) *Whether the Petitioner has locus to file this Petition and Whether the Authority has jurisdiction to adjudicate the present matter?*
  - (ii) *Whether Primary Dispute Resolution Officer has jurisdiction to adjudicate the present matter?*
  - (iii) *Whether the Petitioner has to be charged at par with commercial entity, private colonies and township?*
  - (iv) *What rates should be charged to Petitioner?*

#### FINDINGS OF THE AUTHORITY

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





(i) Whether the Petitioner has locus to file this Petition and Whether the Authority has jurisdiction to adjudicate the present matter?

a) The WRD had given permission to the Petitioner to lift water from Usgaon Dam & the Petitioner has agreement with WRD till 17/04/2023 which means the Petitioner is a bulk water user having an agreement with WRD. Therefore, the Petitioner vide Clause 11 (2) of the MWRRA (Conduct of Business) Regulations, 2013 has locus to file this Petition.

b) The matter is regarding difficulties in Bulk Water Tariff. As per provision in Para 15.0 of the Order No, 1/2018, which reads as below;

*"Powers to remove difficulties – In case any difficulty in implementation of the revised water tariff system, concerned bulk water user / Irrigation Development Corporation / Government can approach to the Authority with Petition. The decision of the Authority as regards to this shall be final and binding."*

The Petitioner is a bulk water user and as per above Para 15, the Authority has jurisdiction to adjudicate the present matter.

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

(ii) Whether Primary Dispute Resolution Officer has jurisdiction to adjudicate the present matter?

A Primary Dispute Resolution Officer (PDRO) was appointed by the provisions in Section 22(1) of the MWRRA Act, 2005 which reads as follows;

*The Government shall by general or special order issued in this behalf authorize any competent officer or officers for each River Basin Agency as Primary Dispute Resolution Officer, to resolve the disputes with regard to the issuance or delivery of water Entitlement, under the Act.*

The present matter is regarding difficulties in bulk water tariff and not about issuance or delivery of entitlement. Therefore, the PDRO has no jurisdiction to adjudicate the present matter.

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



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(iii) Whether the Petitioner has to be charged at par with commercial entity, private colonies and township?

- a) The Petitioner is a Public Charitable Trust formed under the Bombay Public Trust Act, 1950 in the Year 1962. The Petitioner Aashram is non-profit organisation, solely dependent on the donation and is comprised of Temples, Samadhi Shrine, Yagna Mandap, Meditation spaces, Dormitories, Living Quarters, Rooms, Halls for serving food. The principal object of Petitioner Trust is to impart spiritual knowledge through Siddha Yoga teachings, education in personal & social ethics, personality development, spiritual development and yoga techniques to all. Therefore, the Petitioner is not a commercial entity.
- b) The Petitioner Aashram had residential facilities for its devotees and students for short-term and long-term duration with no or minimum charges for their stay. These residential facilities are owned by the Petitioner Trust and not by any individual. Therefore, the Petitioner is not a private colony.
- c) Applicability of Para 5.3 of this Authority's Order No. 01/2018 which reads as below;

*Para 5.3) During the construction phase of commercial entity, private colonies, townships; the water use will be charged at industrial (process) rate and after completion of the construction (i.e. after receipt of Occupation Certificate), water use will be charged as per the provisions in Para-4. If both uses are concurrent, different meters to be installed and assessments to be done accordingly.*

The first part of above para is applicable where commercial entity, private colonies, townships are under construction or till receipt of Occupation Certificate for complete or part project. The second part of above para states that water use will be charged as per provisions in Para 4. However, in Para 4 charges are meant for Townships only.

- d) As per MRTP Act 1966, an Integrated Township Project is a project declared under Section 18 or 44 of MRTP Act 1966. The Petitioner Trust



is registered under Bombay Public Trust Act, 1950 and had established Aashram and the buildings in Year 1962, whereas the term 'Integrated Township Project' was introduced by amending MRTP Act, 1966 with effect from 22/04/2015. Thus, it seems that the Petitioner has constructed these accommodation facilities much before 22/04/2015 and cannot be construed as Township as per Para 4 of Annexure 2 of the Authority's Order No. 01/2018 dated 11/01/2018.

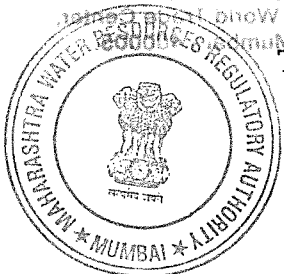
Therefore, in view of above, the Petitioner should not be charged at par with commercial entity, private colonies and township.

**Thus, the answer to the issue is in the negative.**

**(iv) What rates should be charged to Petitioner?**

- a) The Respondent has considered the Petitioner as a domestic water user for its non-irrigation water allocation from 1993 and charging it as per the GR issued by WRD and Tariff Order issued by this Authority from time to time. The Petitioner was charged as a domestic water user vide GR dated 10/09/1991, 28/11/2002 and 31/07/2006.
- b) However, this Authority, as per the provisions of Section 11(d) of the MWRRA Act 2005, had issued its 1<sup>st</sup> Bulk Water Tariff Order on 30/05/2011. This Authority had divided the domestic water use category into Grampanchayat, Urban Local Bodies and Municipal Corporation. As there is no mention of charging for Public Charitable Trust, the Respondent has charged the Petitioner as per Grampanchayat because the Petitioner comes under the jurisdiction of Group Grampanchayat of Ganeshpuri. Further, there is no mention of domestic water rates to be charged to Public Charitable Trust in this Authority's Order No. 01/2018 dated 11/01/2018.
- c) Thus, to remove this ambiguity, it would be proper to charge Public Charitable Trust formed under Bombay Public Trust Act, 1950 at domestic rate of the concerned local body under which jurisdiction it comes.

**The issue is answered accordingly.**



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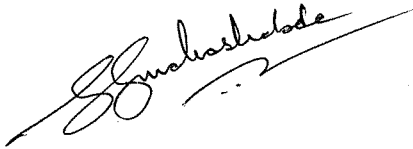
## ORDER

26. Having heard the parties to the litigation, and after giving due consideration to the documents on record, submissions made by the parties and having adjudicated the issues framed as above, we pass the following order;

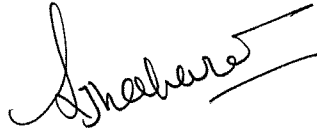
- (i) The Petitioner - Trust does not fall under a commercial entity, private colony or township.
- (ii) The Petitioner should be charged at domestic rate of the concerned local body under which jurisdiction it comes.
- (iii) The Respondent should revise its bills from February 2018 onwards and the Petitioner should pay the bills within the stipulated time period.

The Petition is accordingly disposed off in terms above directions with no order as to the costs.

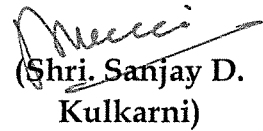
Delivered on May 10, 2022.



(Adv. Dr. Sadhana S.  
Mahashabde)  
Member (Law)



(CA. Shwetal A.  
Thakare)  
Member (Economics)



(Shri. Sanjay D.  
Kulkarni)  
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