



सत्यमेव जयते

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

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

Maharashtra Water Resources Regulatory Authority

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

ORDER NO. 04/ 2022

Case No 4 of 2020

In the Matter of Review Petition filed by Chief Engineer (O&M), Nashik Thermal Power Station, Eklahare in the matter of review & removing difficulties arising out of Hon'ble Authority's Order No. 03/2020 in Case No. 11 of 2019.

Maharashtra State Power Generation Company Ltd.
Through Chief Engineer (O & M),
Nashik Thermal Power Station, Eklahare, District- Nashik.

.....Petitioner

Versus

- 1) Secretary (WRM & CAD),
Water Resources Department, Mumbai.
- 2) Chief Engineer,
Water Resources Department, Nashik
- 3) Superintending Engineer & Administrator,
Command Area Development Authority, Nashik.
- 4) Executive Engineer,
Nashik Irrigation Division, Nashik

.....Respondents



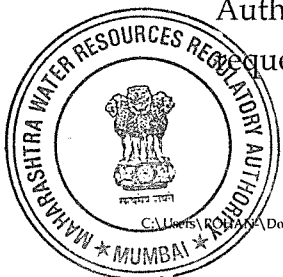
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Coram : Shri. Sanjay D. Kulkarni, Member (WR.Engg.)
CA. Shwetali A. Thakare, Member (Economics)
Adv. Dr. Sadhana S. Mahashabde, Member (Law)

Date : May 11, 2022

BACKGROUND

- 1.0 A Review Petition is filed by Chief Engineer (O&M), Nashik Thermal Power Station (NTPS), Nashik's dated November 09, 2020 in the matter of review & removing difficulties arising out of Hon'ble Authority's Order No. 03/2020 in Case No. 11 of 2019 dated March 06, 2020.
- 2.0 The Maharashtra State Power Generation Company Ltd (MSPGCL) has established NTPS near village Eklahare, Nashik with an installed capacity of 3 x 210 MW. The Petitioner had earlier filed a Petition before this Authority as Case No. 11 of 2019 in the matter of Fixation of Tariff for the supply of contaminated water for the applicant company for its Nashik Thermal Power Plant at Eklahare and claim of parity as per the rationale based on this Authority's Order No. 12 of 2017 passed on October 13, 2017 in M/s Rattanindia Nashik Power Ltd (RNPL) matter. As the water lifting source of RNPL & NTPS is the same i.e. Eklahare Barrage, the NTPS, on the grounds of parity, has preferred the Petition before this Authority for granting 25% concession in water tariff.
- 3.0 However, the Authority, in its Order dated March 06, 2020 stated that the source of water allocated to the Petitioner is the Gangapur dam whereas the source of water allocated to RNPL is the treated water released by NMC from their STPs. Therefore, the Petitioner is not entitled for any tariff concession. Being aggrieved by the Order of the Authority, the Petitioner has filed a Review Petition dated November 09, 2020.
- 4.0 As per the Regulation 30 of the Maharashtra Water Resources Regulatory Authority (Conduct of Business) Regulation, 2013, the Petitioner is required to file a Review Petition within Sixty days of the date of Authority Order (i.e. by May 06, 2020). However, the Petitioner has requested to condone the delay in submission of the Review Petition



under Limitation Act 1963 Sr. No. 5 considering justified reason of Covid-19 epidemics and lockdown thereof.

GIST OF THE PRAYERS

5.0 The Petitioner, through its Petition has prayed for following reliefs:

1. Review the Order No.03/2020 in Case No.11 of 2019

The Hon'ble Authority is requested to review the Order No. 3/2020 in Case No. 11 of 2019 in the interest of the justice and remove the discrimination on the basis of law of equality, as the applicant and other company RNPL is lifting the same contaminated water from one source that is Eklahare Barrage and using same contaminated water for the one purpose of Power generation causing extra expenditure on water treatment to both the entities.

2. Removing difficulties arising out of Hon'ble authority's Order No. 03/2020 in Case No.11 of 2019.

(i) Assurance for uninterrupted water supply:

The Hon'ble Authority is requested to provide Assurance of uninterrupted water supply so that it will not affect the continuous Power Generation without forced shut down of the Power Plant.

(ii) Providing backup source of water supply:

The Hon'ble Authority MWRRA is requested to ensure the back-up source of water supply as per the Government of India new tariff policy dated 28th January 2016 clause no. (6.2) in case of shortage of treated sewage water without any extra financial Burden to the Power Plants i.e. No commitment charges is to be levied on such back-up source of water supply.

(iii) Treated sewage water quality assurance:

The Hon'ble Authority is requested to provide assurance regarding quality of treated sewage water and penalties for non-compliances of MPCB and CPCB discharge norms by the local bodies. The Hon'ble Authority is also requested to issue suitable order to the local bodies to set up three stages STP as per the Government GR to improve the quality of treated sewage water so that it can be make it suitable for



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power Generation at minimum cost so as maintained the cost of Generation and MOD will remain unaffected due to use of treated sewage water by the power plant.

(iv) Fixation of tariff for treated sewage water:

The Hon'ble Authority is requested to ensure that the tariff for treated sewage water is to be fixed by the competent authority of Government of Maharashtra by considering:

- (a) The Hon'ble Authorities MWRRA order dated 13 April 2012 in Case No. 5 of 2011 and order dated 13th October 2017 in Case No. 12/2017 considering extra expenditure required on water treatment for treated sewage water as compare to the fresh water.
- (b) The Government of India New tariff policy dated 28th January 2016 clause no. 6.2 page no.33 should also be taken into consideration so as not to disturb the merit order of the Thermal Power Plant."
- (c) The Government of India (Ministry of Power) vide letter No. MoP I.D. No. 11/104/2015-Th-II dated 14.11.2019 addressed to the Chairperson Central Electricity Authority, asked "If STP's water is to be used then the details regarding quality, quantity and availability of such water along with its price."

The Government of India (Ministry of Power) also asked for impact on tariff in terms of Rs./Kwh by using treated sewage water in TPS.

3. Authority for allocation of treated sewage water, enter into the agreement and authority for Billing for treated sewage water are to be specified.

The Hon'ble Authority is requested to kindly specify the Authority for allocation of treated sewage water, Authority to enter into the agreement for supply of treated sewage water and Billing Authorities as it is not specified in Urban Development Dept. GR No. 2016/259/New - 33 dated 30th November 2017 and MWRRA Orders.

1. Any other relief which this Hon'ble Authority deems fit in the interest of justice.



THE PROCEEDINGS BEFORE THIS AUTHORITY

6.0 After filing of the Petition, the matter could not be taken up due to ongoing Covid-19 pandemic. The Authority, vide letters dated December 03, 2020 & November 23, 2021, had directed Respondents to file Affidavit in Reply. However, Respondent No. 3 vide letter dated January 04, 2021, had submitted that they have prepared Para-wise reply & submitted to Government for approval. Thereafter, this Authority conducted two hearing in the matter i.e. on March 11, 2022 and April 28, 2022.

GIST OF THE FIRST HEARING ON MARCH 11, 2022

7.0 Before the hearing, Respondent No. 4 has filed Affidavit on March 02, 2022 and he had submitted that source of water allocation for Rattan India and NTPS are different. Therefore, Petitioner's request is not eligible to get any type of concession in tariff rate and thus, Petition needs to be rejected in the interest of justice. The Authority had conducted 1st hearing on March 11, 2022 at 12:00 PM by Video Conferencing through Google Meet. Following persons were present for the Hearing;

- 1) Shri. R. S. Dashore — Authorised representative of Petitioner
- 2) Smt. Alka H. Ahirrao — Superintending Engineer & Administrator,
Command Area Development Authority,
Nashik - Respondents No. 3
- 3) Shri. Sagar D. Shinde — Executive Engineer, Nashik Irrigation
Division, Nashik - Respondent No. 4

8.0 The Authority stated that the Petitioner's application for delay condonation, for filing Review Petition beyond permissible 60 day time, can be accepted due to Covid-19 Pandemic.

9.0 The Authority further observed that the Petitioner has filed a Review Petition for the purpose of removing difficulties arising out of Authority's Order in Case No. 11 of 2019 as per Regulation 30 of the MWRA (Conduct of Business) Regulations 2013.



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10.0 On inquiry of the Authority regarding compliance of the direction given in Para 20 (iii) of Order No. 03/2020 in Case No. 11 of 2019, Shri. R. S. Dashore - for Petitioner has submitted that Petitioner has filed the petition to review and to remove difficulty while implementing the Authority's Order. He further submitted that thermal power generation is a continuous process and requires uninterrupted water supply. Further, as per Ministry of Power, Government of India's Tariff Policy - 2016, backup source of water to meet the requirement needs to be ensured in case of shortage of supply. The Authority stated that the direction was to give definite plan to switch over to the use of treated water in time bound manner. The Authority has expressed its displeasure towards non-compliance by the Petitioner. Shri. R. S. Dashore requested for one month's time to file compliance on Authority's directions.

11.0 Smt. Alka H. Ahirrao - Respondent No. 3 has submitted that the Petitioner has been allotted water from Gangapur dam. Water is released from Gangapur dam for Petitioner and it is being lifted from Eklahare K. T. Weir. The Petitioner is being charged as Category - Regulated Water Releases. Whereas, Rattan India Pvt. Ltd. has been given water allocation from Nashik Municipal Corporation's treated sewage water and it is also being lifted from Eklahare K. T. Weir. Though, lifting point of both agencies are same, their source of allocation is different. Therefore, the Petitioner is not entitled for tariff concession.

12.0 Having heard both the parties and considering documents on record / Affidavit, the Authority issue following directions;

- (a) The Petitioner should file Affidavit by April 11, 2022 on the compliance of the direction given in Para 20 (iii) of Order No. 03/2020 in Case No. 11 of 2019. The copy of the same should also be served to Respondents.

GIST OF THE SECOND & FINAL HEARING ON APRIL 28, 2022

13.0 Before the hearing, Petitioner has filed Affidavit on March 24, 2022 in which he has submitted that the Petitioner has already been using the sewage water stored into the Eklahare Barrage. However, backup source



of water is to be provided from Gangapur Dam in the event of shortage of sewage water as per policy.

14.0 The Authority conducted 2nd hearing on April 28, 2022 at 3:00 PM. Following persons were present for the Hearing;

- 1) Shri. R. S. Dashore — Authorised representative of Petitioner
- 2) Shri. C. V. Babhare — Executive Engineer (C), NTPS, Eklahare
- 3) Smt. Alka H. Ahirrao — Superintending Engineer & Administrator, Command Area Development Authority, Nashik - Respondents No. 3
- 4) Shri. Sagar D. Shinde — Executive Engineer, Nashik Irrigation Division, Nashik - Respondent No. 4

15.0 The Authority asked the Petitioner whether there is discovery of new and important matter/evidence or some mistake/error in this Authority's Order No. 03/2020 in Case No. 11 of 2019 dated March 06, 2020. Shri. R. S. Dashore - Authorised representative of Petitioner, has admitted that there is nothing new matter/evidence or mistake/error, as contemplated in above said Regulation 30, pointed out in the Petition.

16.0 The Authority pointed out that as per the direction given in the previous hearing, the Petitioner has filed an Affidavit but there is no plan given to switch over to the use treated water in time bound manner. Shri. R. S. Dashore has submitted that Petitioner wants to continue with the Gangapur Dam as a water source as a backup source as per Ministry of Power, Government of India's Tariff Policy - 2016. The Authority stated that as per said policy, the Petitioner should use treated water. Shri. R. S. Dashore submitted that they need to examine the feasibility of Nashik Municipal Corporation (NMC) releases of treated water. He further submitted that there is enough treated water but practically it is not possible to use it at present. Shri. Sagar D. Shinde - Respondent No. 4 submitted that if the Petitioner surrenders the reservation from Gangapur Dam, that water can be used for other purposes.

17.0 The Authority has stated that as per above said Regulation 30, there is no new matter/evidence or mistake/error pointed out in the Petition and asked Petitioner whether he would like to withdraw the Petition or



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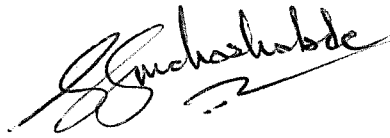
should the Authority pass the Order for rejecting the Review Petition. After taking instructions from the Petitioner, Shri. R. S. Dashore submitted that Petitioner would like to withdraw the Petition.

Order

18.0 Having heard the parties to the litigation, perusing documents as well as data on record, submissions made by the parties and relevant provisions under Regulation 29 & 30 of the Maharashtra Water Resources Regulatory Authority (Conduct of Business) Regulations 2013, this Authority orders as under;

- (a) The Petitioner is hereby allowed to withdraw the petition.
- (b) The Petition under Case No. 4 of 2020 is disposed off with no order as to the costs.

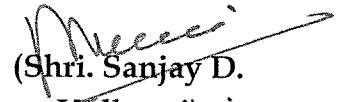
Issued on May 11, 2022.



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(CA. Shwetal A.
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Member (Economics)



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