

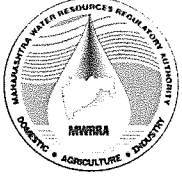
सत्यमेव जयते

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, 2005 चे कलम 3 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. 04/ 2022

Case No.10 of 2019

In The Matter of

Appeal filed by Dattakrupa Water Users' Association and Others against the Superintending Engineer, Pune Irrigation Circle, Pune's Letter dated 26/06/2019 pursuant to the Primary Dispute Resolution Officer's Order dated 18/06/2018 regarding lift permission from Shetphal Tank

1. Dattakrupa Water User Association, Nirningaon through Chairman, Shri. Dattatray Sopan Ghogare, Age: Adult, Occ : Agriculture, R/at NirNimgaon, Taluka: Indapur, District : Pune
2. Kaleshwar Water User Association, Bawada, through Chairman, Shri. Mahadevrao Yadavrao Ghadge, Age: Adult, Occ : Agriculture, R/at Bawada, Taluka : Indapur, District :Pune.
3. Ajitdada Water Users Association, Vaki Wasti through Chairman, Shri. Harish Vasant Kotkar, Age: Adult, Occ: Agriculture, R/at VakilWasti, Taluka: Indapur, District: Pune.
4. Bawda 12 Phata Water User Association, 12 Phata, Bawada through Chairman, Smt. Lilawati Ajit Tilekar, Age: Adult, Occ : Agriculture, R/at Bawada, Taluka : Indapur, District : Pune
5. Shri. Swami Samarth Water User Association, Bawada through Chairman, Shri.Santosh Madhukarrao Patil, Age: Adult, Occ: Agriculture, R/at Bawada, Taluka: Indapur, District: Pune.
6. Sarad Water Users Association, Bawada through Chairman, Shri. Hanumant Eknath Mane, Age : Adult, Occ: Agriculture, R/at Bawada, Taluka : Indapur, District : Pune



(Signature)

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7. Ajit Water User Association, Sarati through Chairman, Shri. Dashrath Shamrao Kokate, Age: Adult, Occ: Agriculture R/at Sarati, Taluka: Indapur, District: Pune.
8. Bhodni Water Users Association, Bhodni through Chairman, Shri. Shivaji Sadba Hange, Age: Adult, Occ: Agriculture, R/at Bhodni, Taluka Indapur, District: Pune.
9. Ajit Dattatray Tilekar, Age : Adult, Occ : Agriculture, R/at Bawda, Taluka : Indapur, District : Pune
10. Shri. Panditrao Vasantrao Patil, Age: Adult, Occ: Agriculture, R/at Bawda, Taluka: Indapur, District: Pune.

.....Appellants

Vs.

1. State of Maharashtra through Minister of Water Resources and Irrigation Department of Maharashtra, Mantralaya, Mumbai - 400032.
2. The Principal Secretary of Water Resources and Irrigation Department of Maharashtra, Mantralaya, Mumbai - 400032.
3. Executive Director, Maharashtra Krishna Valley Development Corporation, Pune - 411011.
4. Assistant Chief Engineer Water Resources and Irrigation Department, Pune. Office/at Sinchan Bhavan, Baner Road, Mangalwar Peth, Pune - 411011.
5. Chief Engineer, Water Resources and Irrigation Department, Pune - 411011. Office/at Sinchan Bhavan, Baner Road, Mangalwar Peth, Pune.
6. Superintendent Engineer of Irrigation Department, Pune - 411011. Office/at Sinchan Bhavan, Baner Road, Mangalwar Peth, Pune.
7. Sub Division Officer/Engineer, Irrigation Department of Nimgaoketki, Taluka: Baramati, District: Pune - 413120.
8. Officer of Irrigation at Bawada, Taluka : Indapur, District : Pune - 413103
9. Vaishali Kailash Gote, Age : Adult, Occ : Agriculture, R/at Shetphaveli, Taluka : Indapur, District : Pune -413103.
10. Kishor Mahadev Shinde, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur, District : Pune - 413103
11. Sopan Baliram Shinde, Age : Adult, Occ : Agriculture, R/at at Shetphalhaveni, Taluka : Indapur, District : Pune - 413103



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12. Manorama Balaso Kadam, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
13. Shivaji Sukhadev Solankar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
14. Aaba Sukhadev Solankar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
15. Suhash Bhimrao Pawar, Age : Adult, Occ : Agriculture R/at Shetphalhaveli, Taluka : Indapur, District : Pune
16. Laxman Yashwant Waghmode, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
17. Rajaram Yashwant Waghmode, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
18. Rajak Jainnudin Mulani, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
19. Bhai Chandubhai Mulani, Age : Adult, Occ : Agriculture, R /at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
20. Baban Hari Darekar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
21. Alauddin Ramjan Mulani, Age : Adult, Occ : Agriculture R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
22. Abir Mehboob Mulani, Age : Adult, Occ : Agriculture R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
23. Tanaji Bhimrao Bansode, Age : Adult, Occ: Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
24. Pralhad Dajiram Aarade, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
25. Ramhari Maruti Kumbhar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
26. Sankar Baburao Bhosale, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103
27. Savita Sitaram Jagtap, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune: 413103
- Shantabai Anandrao Jagtap, Age : Adult, Occ: Agriculture R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103



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29. Rajashri Annaso Solankar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur, District : Pune - 413103.
30. Balu Vetala Waghmode, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur, District : Pune - 413103
31. Someshwar Pandurang Waghmode, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur, District : Pune - 413103.
32. Swati Tanaji Jhol, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103.
33. Kusum Balaso Pawar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
34. Dipak Shivaji Shinde, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
35. Pradeep Balasaheb Shinde and another, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
36. Dhanaji Bhau Bankar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
37. Ramchandra Pandharinath Duke, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103.
38. Annaso Ramchandra Magar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
39. Sunil Ramesh Jadhav, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
40. Dhanesh Balaso Machale, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
41. Dattatray Navnath Jagtap, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
42. Sarjerao Eknath Waghmode, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
43. Vitthal Baliram Devkate, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
44. Sudam Ganpat Chavre, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103
45. Sudhir Subhash Patil, Age : Adult, Occ : Agriculture, R/at Shetphalhaveni, Taluka : Indapur , District : Pune -413103

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46. Balasaheb Dyandev Mete, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103.
47. Sandhyadevi Dhanajya Patil, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
48. Neha Rahul Phadtare, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
49. Babutai Raghunath Mane, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
50. Rupali Santosh Pawar, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
51. Rahit Chandrasen Shinde, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
52. Shankar Nivrutti Shinde, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
53. Annapurna Tukaram Mete, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur, District : Pune - 413103.
54. Santosh Bhagwan Dhavle, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
55. Sanjay Pralhad Salunkhe, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
56. Bhaskar Ganpat Bobade, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune -413103
57. Shri. Balasaheb Kargal, Age : Adult, Occ : Agriculture, R/at Shetphalhaveli, Taluka : Indapur , District : Pune - 413103

.....Respondents

Adv. B. S. Shinde for Appellant Nos. 1 to 10

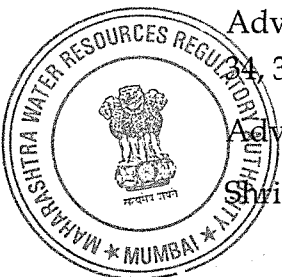
Adv. Shakuntala Wadekar for Respondents Nos. 1 to 8.

Adv. K. D. Bhosale, for Respondent No. 29, 35, 37, 39, 40 & 48 to 50

Adv. Prashant M. Maindargi for Respondent No. 9 to 22, 24 to 28, 30, 31, 33, 34, 36, 41, 53 & 55

Adv. Shankar Katkar for Respondent No. 23, 42

Shri. Nitin D. Shinde for representing Respondent No. 32



(Signature)

Shri. Balasaheb Kargal, Respondent No. 57 in person

Coram : Shri. Sanjay D. Kulkarni, Member (WR.Engg.)

CA. Shwetali A. Thakare, Member (Economics)

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

Date : June 24, 2022

- 1.0 An Appeal has been filed by Dattakrupa Water Users' Association and others dated 19/07/2019 against the Superintending Engineer, Pune Irrigation Circle, Pune's letter dated 26/06/2019. The Appellants are the Water Users Associations of Shetphal Tank. Earlier, the Appellants had filed an application dated 09/03/2017 before the MWRRA for not to grant permission to 115 people for Lift Irrigation in Shetphal Tank and for directions to the Respondent to distribute water equally to the concerned farmers through Canal Irrigation. As per the directions of the Authority, the Appellants had filed an application before the Primary Dispute Resolution Officer (PDRO) & Chief Engineer (SP), WRD, Pune. The PDRO had issued directions vide a letter dated 18/06/2018 but not yet finally disposed of the matter before him. The PDRO further directed to submit the proposal to State Government for taking policy decision regarding permission for Lift Irrigation from Shetphal Tank.
- 2.0 The Appellants further filed an Application cum representation dated 07/08/2018 before the Hon'ble State Minister, Water Resources Department (WRD), Maharashtra Water Resources Regulatory Authority (MWRRA) and others to fix a hearing in respect of allotment of water through lift irrigation. Accordingly, WRD vide letter dated 28/05/2019 directed Executive Director, Maharashtra Krishna Valley Development Corporation, Pune to take a decision in respect of, the above matter and then Executive Director, Maharashtra Krishna Valley Development Corporation, Pune directed the Chief Engineer (WR), WRD, Pune to take the decision to grant permission for Lift Irrigation to eligible Applicants on 19/06/2019. The Chief Engineer (WR), Pune further directed the Superintending Engineer, Pune Irrigation Circle,

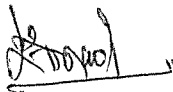


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Pune vide letter dated 25/06/2019 to take the decision to grant permission for Lift Irrigation to eligible Applicants. Accordingly, Superintending Engineer, Pune Irrigation Circle, Pune vide letter dated 26/06/2019 had given lift permission to 48 farmers (44 in command & 4 in non-command) from Shetphal Tank.

- 3.0 However, the Appellants were aggrieved that the Superintending Engineer, Pune Irrigation Circle, Pune has passed the order without giving any opportunity of hearing to the Petitioners and issued the Order dated 26/06/2019 allowing the permission to 48 people out of 115 for lift irrigation without verifying the Applications. Hence, the Appellants had filed this Appeal before this Authority praying for quashing and setting aside the Superintending Engineer, Pune Irrigation Circle, Pune's Order dated 26/06/2019.
- 4.0 The Authority had conducted five hearings in the matter i.e. on 18/09/2019, 08/01/2020, 27/02/2020, 01/04/2022 & 11/05/2022. As per the directions given in the previous hearings, Respondents No. 1 to 8 had filed an Affidavit through Executive Engineer, Pune Irrigation Division, Pune dated 01/05/2022, and an Additional Affidavit through Superintending Engineer, Pune Irrigation Circle, Pune dated 01/05/2022.
- 5.0 Meanwhile, Adv. B. S. Shinde for Kaleshwar Water User Association who is Appellant No. 2 in the matter, had approached the Hon'ble High Court at Bombay through Writ Petition No. 2373 of 2022. The Hon'ble High Court vide its Order dated 08/03/2022 had disposed the said Petition and requested this Authority to dispose of this Appeal at its earliest convenience and preferably within eight weeks from today.
- 6.0 Following persons were present for the Hearing dated 11/05/2022;

- 1) Adv. B. S. Shinde, along- — Advocate representing Appellant
with some Appellants Nos. 1 to 10
- 2) Adv. Shakuntala Wadekar — Advocate representing
Respondents Nos. 1 to 8.
- 3) Shri. Rajendra Dhodapkar — Executive Engineer, Pune
Irrigation Division, Pune for



- Respondent No. 3 to 8
- 4) Adv. K. D. Bhosale, along- — Advocate representing
with some Respondents Respondent No. 29, 35, 37, 39, 40
& 48 to 50
- 5) Adv. Prashant M. — Advocate representing
Maindargi along-with Respondent No. 9 to 22, 24 to 28,
some Respondents 30, 31, 33, 34, 36, 41, 53 & 55
- 6) Shri. Nitin D. Shinde — Representative of Respondent No.
32 - Sau. Swati Tanaji Jhol
- 7) Shri. Balasaheb Kargal — Respondent No. 57

7.0 Adv. B. S. Shinde for the Appellants had filed a Rejoinder dated 11/05/2022 on Respondents Affidavit and submitted that State Government has not issued a letter as per the Public Notice issued in 2014. On scrutiny of lift permission of 115 farmers, it was found that 111 farmers are in command of another project & their land is not getting water due to no demand and 48 farmers are in 'Udafa' area. If these farmers are not getting water then also they grow crops like sugarcane. Further, there is no mention of Project Affected Peoples (PAPs) in the Public Notice issued in 2014. Lift permissions were given for 18 years or till field channels are repaired but WRD has not yet repaired the field channels. The farmers, who had permission to lift water by using a 3.0 HP motor, had installed much high power motors.

8.0 Adv. Shakuntala Wadekar for Respondent No. 1 to 8 submitted that Review Committee is formed to scrutinise the permissions granted & resolve the grievances of locals however, it does not mean that the order of SE PIC, Pune is not correct. The orders of the State Government does not take away the rightful water of the Appellant. She further submitted that the lift sanctions were given as per WRD's GR dated 21/11/2002 and regarding PAPs, priority should be given to PAPs which may be of original or another project. The long term permission was given to get an electricity connection and permissions were given for using a drip/sprinkler irrigation system. If anyone does not follow these conditions, their permissions will be terminated.

Shakuntala Wadekar



- 9.0 Shri. Balasaheb Kargal - Respondent No. 57 submitted that his village is at downstream of Shetphal Tank and his farm does not come under command of Shetphal but in the Command of Nira Left Bank Canal (NLBC). After Shetphal Tank fills completely, his wells get water for irrigation.
- 10.0 Shri. Nitin D. Shinde - Representative of Respondent No. 32 submitted that till 1987 his land was coming under command of NLBC but being a tail end farmer and water supply was irregular, the land was never irrigated through NLBC. Then afterward, his name was removed due to an overlap of command of NLBC and lift permissions given from Bhima River.
- 11.0 Adv. Prashant M. Maindargi has submitted that in continuation with submissions made in the previous hearing, the Appeal is not maintainable. SE PIC, Pune has given permission till the repairs of field channels.
- 12.0 Adv. K. D. Bhosale submitted that the Appellant has challenged the SE PIC, Pune's order. The matter before PDRO is still pending and it should be disposed of first. Then afterwards, the Appellant may challenge the order of PDRO under Section 22(3) of the MWRRA Act, 2005 before this Authority.
- 13.0 Adv. B. S. Shinde for the Appellants submitted that the matter before PDRO is not disposed of yet and therefore PDRO should be directed to decide the matter within the stipulated timeline. The Advocates of the Respondents had given their concurrence.
- 14.0 After hearing all the parties, the Authority closed the proceedings for the Order.



Order

15.0 Having heard the parties to the litigation, and after giving due consideration to the documents on record, and submissions made by the parties, this Authority passes the following order;

- (a) The request of the Appellants and the Respondents about the matter to refer back to the PDRO is granted as the Water Complaint Application No. 03/2017 is not disposed off by the PDRO's Order dated 18/06/2018. The direction given in Para D [¶] (1) in Order dated 18/06/2018 has resulted in permission to 48 farmers as per Superintending Engineer, Pune Irrigation Circle, Pune's letter dated 25/06/2019.
- (b) The PDRO shall add all the Appellants and the Respondents of this matter along with their pleadings and give a reasonable opportunity of hearing to all the parties in litigation. In order to have a fair trial before the PDRO, liberty is granted to all the parties in litigation to file any additional documents/evidence before the PDRO, which shall be considered by the PDRO. The proceedings shall be completed by the PDRO within four months from the date of issue of this Order.
- (c) The Appeal under Case No. 10 of 2019 is disposed of with no order as to the costs.

Delivered on June 24, 2022.

Sd/-

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

Sd/-

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

Sd/-

(Shri. Sanjay D.
Kulkarni)
Member (W. R. Engg.)



(Dr. Ramnath Sonawane)
Secretary
Maharashtra Water Resources
Regulatory Authority,
9th Floor, Center-1, World Trade Center,
Cuffe Parade, Mumbai - 400005.