



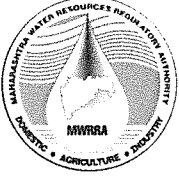
सत्यमेव जयते

# 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. 05 / 2022

(In Case No. 1 of 2021)

In the Matter of

A Petition filed by Chief Engineer (O & M) Mahagenco BTPS,  
Deepnagar in the matter of resolving a dispute with WRD related to  
penal rates, water metering charges and delay charges levied to the  
applicant company for its Bhusawal Thermal Power Plant, Deepnagar,  
District- Jalgaon

Chief Engineer,  
Maharashtra State Power Generation Company Ltd.,  
Bhusawal Thermal Power Station, Deepnagar,  
District - Jalgaon

.....Petitioner

V/s.

- 1) State of Maharashtra Water Resources Department,  
Through its Secretary, Mantralaya, Mumbai- 32.
- 2) Chief Engineer,  
Tapi Irrigation Development Corporation (TIDC),  
Water Resources Department, Sinchan Bhawan,  
Akashwani Chowk, Jalgaon.

9<sup>th</sup> Floor, Centre-1, World Trade Centre, Cuffe Parade, Mumbai-400005.

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- 3) The Superintending Engineer,  
Command Area Development Authority (CADA),  
Water Resource Department, Sinchan Bhawan,  
Akashwani Chowk, Jalgaon.
- 4) The Executive Engineer,  
Bhusawal Irrigation Department,  
Akshwani Chowk, Jalgaon.

.....Respondents

**Coram : CA. Shwetali A. Thakare, Member (Economics)**

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

**Date : 24/06/2022**

### **BACKGROUND**

1. Maharashtra State Power Generation Company Limited (Mahagenco) had established Bhusawal Thermal Power Station (BTPS) near village Deepnagar, Taluka Bhusawal, District Jalgaon with an installed capacity of 1482.50 MW. But now only 1210 MW of power is generated.
2. Water Resources Department (WRD) had allocated 44.65 Million Cubic meters from Sudgaon Bandhara through Hatnur Dam on the Tapi River. The BTPS had disputes about water bills raised by WRD for penal charges, non-instalment of water meter, not entering into an agreement as per revised format as prescribed by WRD and charging on conveyance losses. Thus, a total of Rs. 40.28 crore is the disputed amount.
3. A meeting was held under the Chairmanship of Secretary (WRM & CAD), WRD on 13/03/2008 to resolve the dispute. As per the directions



given in the meeting, the BTPS has complied with the directions about the instalment of the water meter, payment of difference of arrears and fresh agreement. Thereafter, a proposal to revoke the penalty of Rs. 40.09 crore was submitted to Secretary (WRM & CAD), WRD on 14/09/2011 and again resubmitted on 28/06/2013. Thereafter, a meeting was held under the Chairmanship of Hon'ble Minister, WRD and with Hon'ble Minister, Energy on 18/01/2017 wherein it was decided to keep the proposal to revoke the penalty of Rs. 40.09 crore in Cabinet Meeting by Principal Secretary, Energy Department.

4. In view of the above, the BTPS has filed a petition before this Authority on 19/03/2021 as per Regulation 6(c) & (d) of Maharashtra Water Resources Regulatory Authority (Fixing Criteria for and Issuance of Tariff orders for Bulk water) Regulation, 2013 and as per provisions in Section 22 (1 to 4) of Maharashtra Water Resources Regulatory Authority Act, 2005.

#### GIST OF THE PRAYERS

5. The Petitioner, through its Petition has prayed for the following reliefs:

*The delay in renewal of the agreement is due to inability to modify the proforma by Executive Engineer (Irrigation). Also, the Irrigation Department pressed BTPs to deposit the entire amount shown outstanding in their bills prior to entering in to revised agreement. Hence, agreement in revised proforma could not be done. Thus it attributed to the Water Resources Department, WRD, Jalgaon. Therefore, the penalty levied by WRD is illegitimate and to be withdrawn.*

1. *The Applicant Company Mahagenco, BTPs Deepnagar, has paid all the water bills and local cess to WRD prior to renewal of agreement. The applicant company is Government of Maharashtra Enterprise and payments are made as per availability of funds.*

*Thus the delay charges levied on any account of delay in payments is to be withdrawn.*

2. *The applicant company Mahagenco BTPS has provided water metering system (measuring device). Therefore, excess billing quantity over actually consumed quantity levied by WRD Jalgaon is also to be withdrawn.*



*[Handwritten signature]*

3. *The applicant company Mahagenco, BTPS was informing the domestic and industrial water consumption separately. Hence, penal rates for industrial use of water should be withdrawn by WRD Jalgaon.*
4. *The applicant company Mahagenco, BTPS has confirmed the storage capacity of Sudhgaon concrete bund through MERI Nashik. Hence, charges framed by WRD Jalgaon is to be repealed.*
5. *The applicant company Mahagenco, BTPS has also deposited amount at Rs.1799.64 lacs to WRD Jalgaon. Hence, the reconciliation of the same is expected and any other charges on any account which seems to fit in interest of justice shall be considered for relief.*
6. *The applicant company Mahagenco, BTPS has paid the water bills at higher rates. Hence, the conveyance charges levied by WRD Jalgaon is to be repealed.*
7. *Executive Director, TIDC has already submitted the recommendation regarding waiver of outstanding amount Rs.40.08 Cr. to Hon'ble Principle Secretary, WRD, Mumbai.*
8. *Any other relief which this Hon'ble Authority deem fit in the interest of Justice.*

### **THE PROCEEDINGS BEFORE THIS AUTHORITY**

6. After the filing of the Petition on 19/03/2021, the matter could not be taken up due to the ongoing Covid-19 pandemic. The Authority vide its letter dated 28/10/2021 directed all the Respondents to file their Para wise Affidavit in Reply. Superintending Engineer, Command Area Development Authority (CADA), Jalgaon - Respondent No. 3 on behalf of all Respondents has filed an Affidavit in Reply dated 24/12/2021. He had submitted that the actions have been taken as per the provisions of the Agreement, Government Resolutions & Circulars issued from time to time and concluded that the proposal of waiver of said arrears of water charges is under process in the Energy & Labour Department of Government of Maharashtra. Thereafter, this Authority conducted one hearing in the matter i.e. on 10/06/2022. The Authority gave fair and equal opportunities to the parties to present their case on



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

### GIST OF THE FIRST & LAST HEARING ON 10/06/2022

7. The physical hearing was conducted on 10/06/2022 at 12:00 PM in the office of the Maharashtra Water Resources Regulatory Authority and the following persons were present for the Hearing;

- 1) Shri. R. S. Dashore — Authorised representative of Petitioner
- 2) Shri. R. S. Raut — Superintending Engineer (C), BTPS, Deepnagar
- 3) Adv. Shakuntala Wadekar — Advocate for Respondents
- 4) Shri. D. B. Behere — Executive Engineer, Jalgaon Irrigation Division, Jalgaon - Respondent No. 4

8. Shri. R. S. Dashore had submitted the letter of Petitioner regarding Authorised representative of Petitioner. On inquiry of the Authority, Shri. R. S. Dashore had given a brief about the matter and submitted that the dispute was started before the enactment of the Maharashtra Water Resources Regulatory Authority Act, 2005. The WRD had given the BTPS their entitled water but while billing no bifurcation of water use was given and transit/conveyance losses were levied. The dispute is not about water rates but the penalties charged. The issue of waiver of Rs. 40.09 crore is still pending before the Government.

9. Adv. Shakuntala Wadekar filed Vakalatnama on behalf of Respondents and submitted that as per Clause 12(b) of the Agreement, the Petitioner should first pay the amount and then file an Application to Superintending Engineer, CADA, Jalgaon. As per the Maharashtra Water Resources Regulatory Authority Act 2005, the issue of waiver of water charges does not come under the jurisdiction of this Authority.

10. The Authority observed that the Authority has no jurisdiction regarding waiver of penal water charges as per the Maharashtra Water



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Resources Regulatory Authority Act 2005. Therefore, the Authority asked Petitioner whether he would like to withdraw the Petition or should the Authority pass the Order rejecting the Petition. After taking instructions from the Petitioner, Shri. R. S. Dashore submitted that Petitioner would like to withdraw the Petition.

## ORDER

11. 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 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. 1 of 2021 is disposed off with no order as to the costs.

Issued on 24/06/2022.


Sd/-

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

Sd/-

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



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