



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. 06 / 2022

(In Case No. 5 of 2020)

In the matter of

MWRRA order No. 01/2018 dated 11/01/2018 and in the matter of order dated 16/08/2018 passed by Executive Engineer, Bhatsa Dam Division, Bhatsanagar levying water charges at 2 times of normal rate to petitioner Municipal Corporation of Greater Mumbai w.e.f. March 2018

- 1) Municipal Corporation of Greater Mumbai
Office at Mahapalika Marg, Fort,
Mumbai - 400001
- 2) Hydraulic Engineer Department,
Through Deputy Hydraulic Engineer (P&C),
Engineering Hub Building, 1st Floor,
Dr. Moses Road, Worli, Mumbai - 400018

.....Petitioners

V/s.

- 1) The State of Maharashtra,
Through its Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai- 400032.



- 2) Executive Engineer,
Bhatsa Dam Division, Bhatsanagar,
Taluka- Shahapur, Dist- Thane.

.....Respondents

- 1) Adv. Sonali Pawar - Counsel for Petitioner
- 2) Adv. Shakuntala Wadekar - Advocate for Respondents

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

Date : July 25, 2022

BACKGROUND

1. Municipal Corporation of Greater Mumbai (MCGM) is a corporate body duly constituted under the Mumbai Municipal Corporation Act, 1988. Mumbai city gets water supply from Tansa, Modak Sagar (Lower Vaitarna), Middle Vaitarna, Upper Vaitarna and Bhatsa situated 100 km outside city limits and two small sources viz. Vihar and Tulshi are within city limits.
2. Maharashtra Water Resources Regulatory Authority (MWRRA) vide its Order dated 11/01/2018 has given guidelines to calculate water demand but there is no mention of water required for commercial and industrial purposes. Table No. 2 of Appendix 2 indicates water charges slabs for actual water consumption inclusive of leakages, unauthorised consumption and commercial consumption. Due to this, bulk water suppliers are not ready to consider the water requirements of commercial and industrial consumers and urban local bodies like Petitioner are



pushed into a higher rate slab while raising the bills towards bulk water supply.

3. Executive Engineer, Bhatsa Dam Division, Bhatsanagar - Respondent No. 2, vide letter dated 16/08/2018 has informed that as the MCGM's actual water usage is more than 140% of their applicable water use and therefore, MCGM will be charged at double the normal rate.
4. The Petitioner submitted that Respondent No. 2 has wrongly considered the population of 2011 and ignored water consumption for commercial and industrial usage.
5. In view of the above, the MCGM has filed a petition before this Authority on 26/11/2020 as per clause 15 of the MWRRA's Order No. 01/2018 dated 11/01/2018 to clarify and give a proper interpretation of the said Order which will guide the concerned state authorities in levying appropriate charges and prevent disputes from recurring.

GIST OF THE PRAYERS

6. The Petitioner, through its Petition has prayed for the following reliefs:
 - a. *To call for the records from the office of Executive Engineer (Bhatsa Dam Division), Bhatsanagar and after perusal of the same to declare the impugned Order dated 16.08.2018 (Exhibit A) by the Executive Engineer (Bhatsa Dam Division), Bhatsanagar levying water charges at 2 times of the normal rate as void and illegal;*
 - b. *To quash and set aside the impugned Order dated 16.08.2018 by the Executive Engineer (Bhatsa Dam Division), Bhatsanagar levying water charges at 2 times of the normal rate w.e.f. March 2018;*
 - c. *It may kindly be declared that the water charges applicable in the case of Petitioner MCGM for Bulk water supply is at 1.5 times and accordingly appropriate consequential directions be issued to the Respondent No.2 that the water charges shall be levied 1.5 times on the petitioners instead of 2 times as levied at present by the Office of Executive Engineer (Bhatsa Dam Division), Bhatsanagar with retrospective effect from March 2018.*



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- d. Any other appropriate order as may be found in favour of the petitioners, in the interest of justice may kindly be pleased.*

THE PROCEEDINGS BEFORE THIS AUTHORITY

7. After the filing of the Petition on 26/11/2020, the matter could not be taken up due to the ongoing Covid-19 pandemic. The Authority vide its letter dated 18/01/2021 & reminder letter dated 29/10/2021, directed all the Respondents to file their Para wise Affidavit in Reply. As there was no compliance from the Respondents, this Authority scheduled a hearing in the matter i.e. on 30/06/2022. 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.
8. The first & last hearing was conducted on 30/06/2022 at 3:00 PM in the office of the Maharashtra Water Resources Regulatory Authority. Shri. P. L. Malwade, Deputy Hydraulic Engineer (P&C), Shri. A. R. Kotkar, Executive Engineer (Meters Revenue) and Smt. S. T. Naik, Sub Engineer for Petitioner Shri. Vinod D. Kank, Deputy Engineer, Bhatsa Dam Division, Bhatsanagar for Respondents were present for the Hearing.
9. Adv. Sonali Pawar submitted that she is a junior advocate for Adv. Yashodeep Deshmukh, Counsel for Petitioner and Petitioner has instructed Adv. Deshmukh today morning to appear in the matter. However, due to prior engagements in the Hon'ble High Court at Bombay, Adv. Deshmukh could not appear today and therefore, she has requested to grant time to take instruction from the Petitioner and make submissions accordingly.
10. Adv. Shakuntala Wadekar for the Respondents filed the Vakalatnama and has 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, Thane Irrigation Circle, Thane. Adv. Wadekar has shown the copy of the Agreement to this Authority as a copy of the Agreement was not provided along with the Petition.



11. On inquiry of the Authority, Shri. A. R. Kotkar - Executive Engineer (Meters Revenue) for Petitioner admitted that they have not approached the concerned Superintending Engineer in this matter.

ORDER

12. Having heard the parties to the litigation, perusing documents as well as data on record, and submissions made by the parties, this Authority orders as under;
- (a) The Petitioner should first avail the remedy of the dispute resolution mechanism given in the Agreement and resolve the matter accordingly.
- (b) The Petition under Case No. 5 of 2020 is disposed off with no order as to the costs.

Issued on July 25, 2022.

Sd/-

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

Sd/-

(CA. Shwetal 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.