



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. 08/ 2022

Case No. 14 of 2018

In The Matter of

An Appeal filed by Pune Municipal Corporation against the order of the Primary Dispute Resolution Officer dated 23/10/2017 - Supplying water to Pune City as per the Population and Norms

Pune Municipal Corporation,
Shivaji Nagar, Pune.

.....Appellant

Versus

- 1) Chief Engineer, Water Resources Department, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011.
- 2) Superintending Engineer, Pune Irrigation Circle, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011.
- 3) Executive Engineer, Khadakwasla Irrigation Division, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411011.
- 4) Shri. Vitthal Dnyandev Jarad,
R/at- Post-Undwadi, Tal. Baramati,
Dist.- Pune-413102.

.....Respondents



Adv. Abhijit Kulkarni for the Appellants

Shri. S. D. Chopade - Respondent No. 2 in person

Shri. Vitthal Dnyandev Jarad - Respondent No. 4 in person

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

Date : November 22, 2022

- 1.0 Shri. Vitthal Dnyandev Jarad, Respondent No. 4 in this matter, had filed an Application before Chief Engineer, Water Resources Department (WRD) Pune who is also the Primary Dispute Resolution Officer (PDRO) for the Krishna basin (Case No. 1/2017). The prominent prayer made in the application was to restrict water consumption of the Pune Municipal Corporation (PMC) to norm-based population requirements and to release water for agriculture as per the quota allocated for agriculture. Other prayers were compelling PMC to use water economically and water meters both at the supply and consumer ends.
- 2.0 The PDRO, after hearing both the parties, vide Order dated 23/10/2017 fixed the annual entitlement for PMC as 8.19 Thousand Million Cubic Feet (TMC) of water, on the basis of population data submitted by the PMC and the reasonable use norms decided by the Maharashtra Water Resources Regulatory Authority (MWRRA) by its Order dated 22/09/2017.
- 3.0 PMC - the Appellant, having aggrieved by the Order passed by the PDRO on 23/10/2017, has filed an appeal before this Authority on 26/09/2018 under Section 22(3) of the MWRRA Act 2005 along with the separate delay condonation application.



4.0 The Authority had conducted two hearings in the matter i.e. on 12/11/2018 and 13/12/2018. Based on documents on record and submissions made by the parties, the Authority issued the following directions to the Appellant and Respondents on 13/12/2018;

- i) *Water being the basic need for survival of the human and part of the right to life, both the Appellant – PMC as well as Respondent No. 2 and 3 are duty bound to supply adequate drinking water to all its citizens, in view of the provisions mentioned in paragraph 25 (i) above. At the same time, as available water resources are already overstressed due to ever growing demand of the urban population, reasonable use norms must be followed and water supplied must be used efficiently minimising its wastage. It should also be kept in mind that fresh water has considerable economic potential in its diverse alternative uses. Its value is much beyond its price. Diversion of more and more water for domestic use by reducing the rights of agriculture sector is not sustainable.*
- ii) *Considering the provisions in Section 31(B) of the MWRRA (Amendment and Continuance) Act 2011, the water reservation of 11.5 TMC of water sanctioned by the High Power Committee in its meeting dated March 10, 2005 i.e. prior to September 17, 2010 need to be considered as the Entitlement sanctioned under MWRRA Act, 2005. Hence, this Water Entitlement shall prevail over the Order passed by the PDRO on October 23, 2017.*
- iii) *Appellant shall prepare the Water Budget, strictly as per norms provided in the Criteria, issued by this Authority on September 22, 2017 under Section 11(a) of the MWRRA (Amendment and Continuance) Act, 2011 and 11(q) of the MWRRA Act, 2005 and submit it to River Basin Agency (RBA) after verifying the population being served. The Water Budget shall necessarily but not restricted to include the following data in addition to any other data as required by the RBA for determining the Entitlement:*
 - a) *Total Population being served.*
 - b) *Population being served with individual household taps and their water demand.*



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- c) *Population being served with community stand posts and their water demand.*
- d) *Population being served by tankers and their demand.*
- e) *Floating population if any and its water demand.*
- f) *Population served outside corporation limits and their water demand.*
- g) *Gross annual domestic water requirement in MCM.*
- h) *Annual major industrial demand.*
- i) *Non potable needs that can be satisfied by water that can be made available from ground water, rainwater harvesting, recycling etc. in MCM.*
- j) *Net fresh water requirement in MCM.*
- k) *Sewage Generation in MLD*
- l) *Installed capacity of sewage treatment plants in MLD.*
- m) *Population data shall be countersigned by the Commissioner after verifying the same.*
- iv) *RBA shall approve the Bulk Water Entitlement for the Appellant after due scrutiny of the Water Budget and following :*
 - a) *the Criteria determined by this Authority on September 22, 2017*
 - b) *Decisions given by this Authority in Paragraph 27(iv) above, under the provisions in Clause 12 of the Criteria*
 - c) *Provisions in Section 31 (B) of the MWRRRA (Amendment and Continuance) Act 2011.*
- v) *The Bulk Water Entitlement so determined by the RBA shall be effective from the date of such order subjected to minimum of 11.5 TMC considering the provisions in Section 31(B) of the Act.*
- vi) *The fresh, Water Supply Agreement shall be signed by the Appellant and the Respondent based on the Entitlement so determined. The provisions in the Agreement shall be consistent with the provisions in the Criteria determined by this Authority and the provisions in the Act.*



- vii) Appellant-PMC must carry out Water Audit of its Water Distribution System within three months from the date of issue of this Order and take all necessary remedial measures on war footing to reduce the UFW (distribution losses + Non-Revenue Water). A time-bound program shall be formulated within month's time and shall be implemented till the percentage of UFW is reduced to limit prescribed in the Criteria. The time-bound program and the Annual Progress Report regarding achievement of the targets shall be submitted to this Authority and shall also be put in public domain.
- viii) Considering the fact that Khadakwasla Complex is already overstressed, Appellant must strictly implement, the long term strategy specified by this Authority in Clause 11.1 of the Criteria dated September 22, 2017 to reduce the burden on fresh water. The use of available groundwater and also the water that can be made available from rainwater harvesting and recycling, for non-potable uses like gardening, car washing, fire fighting, toilet flushing, process industries etc. must be promoted, to reduce the burden on fresh water. It seems to be the only sustainable solution to reduce the burden on fresh water and to cater for future needs.
- ix) Water being community resource, the Appellant – PMC is duty bound to protect the water bodies in its jurisdiction from encroachment and to preserve the quality of its water from pollution. Appellant must promote use of water from alternative sources in its jurisdiction like Katraj Lake.
- x) Appellant – PMC is duty bound to treat all sewage that it creates, as the untreated sewage is polluting the downstream water resources, reducing its usability and also causing serious health hazards to the downstream population. The Appellant – PMC must estimate the sewage being generated correctly and prepare a time bound program for augmenting the existing treatment capacity by installing STPs of adequate capacity to treat all the sewage that it generates and submit yearly progress report to this Authority indicating sewage generated, installed capacity of STPs, sewage actually being treated along with the test reports of effluent being discharged into the river.
- xi) In view of the data on record at paragraph 10(i) and conclusion in paragraph 11(vii) above Appellant - PMC, must make available treated



water for agriculture to the extent of its water use over and above 8.3 TMC.

- xii) *Water being Community Resource under Public Trust Doctrine, both the Appellant - PMC and the Respondent No. 3 must mandatorily keep all the data / information related to water in public domain after its due validation and update it time to time and such data shall contain but not restricted to Water Budget, Entitlement sanctioned, actual consumption in MLD and in lpcd, Zone wise consumption in MLD and in lpcd, distribution losses, Non-Revenue Water, sewage being generated, installed capacity of STPs, sewage being actually treated, test reports of treated effluent being discharged to river/canal, Water Agreements, water charges billed by WRD, water charges paid to WRD, water audit reports etc.*
- xiii) *So as to avoid the breach of the agreement signed by the Appellant with Respondent No. 3, Appellant must pay the water charges regularly to the Respondent WRD as per the provisions in the Agreement. Further, as agreed by the Appellant during the proceedings before this Authority, the payment of all undisputed bills shall be made before March 31, 2019. All the disputes regarding water charges shall be settled mutually by January 15, 2019 as per the provisions in the water supply agreement and all arrears of bills upto March 31. 2018 shall be paid by latest June 30, 2019.*
- xiv) *Appellant as well as the Respondent No. 2 and 3 shall submit the compliance of the directions issued herein above before April 15, 2019.*

Thus, the Appeal is partially allowed with directions as above.

List it for review of the compliance on July 10, 2019 at 3.00 pm.

5.0 Thereafter, Prataprao Ganpatrao Patil, President of Indapur Taluka Khadakwasla Prakalp Labhadharak Shetkari Sanghatana filed a Writ Petition No. 2451 of 2019 in the Hon'ble High Court at Bombay in the matter of inaction of Respondents in following the order passed by the MWRRA on 13/12/2018 and excess water use of PMC. The Petitioner has not challenged the MWRRA's Order dated 13/12/2018. The Hon'ble High Court in its order dated 03/05/2019 had stated that "Pendency of this Petition would not prevent Maharashtra Water Resources



Regulatory Authority from considering the application of the Pune Municipal Corporation for allocation of higher water supply, if it is pending before the authority."

6.0 Also, Pune Municipal Corporation filed a Writ Petition No. 5422 of 2019 in the Hon'ble High Court at Bombay challenging the orders passed by Chief Engineer, Irrigation Department, Pune dated 23/10/2017 & MWRRA's Order dated 13/12/2018. The Hon'ble High Court has not disposed of these Writ Petitions.

7.0 As per the MWRRA's Order dated 13/12/2018, the Authority conducted the 1st Compliance Hearing on 10/07/2019 in this matter. During the hearing, the issue of the above Writ Petitions was discussed and the Authority decided to proceed with a compliance hearing. During the hearing, the Authority gave the following directions;

- a) *The Appellant-PMC and the Respondent Nos. 2 & 3 should upload Water Budget, Water Entitlement and the allocation for the year as well as water supplied month-wise on their respective websites, under intimation to public through newspaper to avoid confusion amongst the citizen regarding the water entitlement and actual consumption.*
- b) *The Appellant-PMC should file an Affidavit through Ld. Municipal Commissioner of the Appellant - PMC on all points mentioned herein above along with details of the compliance of the directions given in the Authority's Order in Original as well as directions as covered in this proceeding within eight weeks' time. If required or desired so the Affidavit may be placed before the General Body of the Appellant-PMC for the perusal and factual information of the public representatives.*
- c) *The Respondent No.2-SE PIC, Pune should resolve all the disputes regarding water charges / arrears/ reconciliation and PMC should pay the balance undisputed amount of the dues immediately as such arrears are impacting on the sustainability of the Water Resources Projects. The tariff order issued by the Authority dated January 11, 2018 is clear about applicable rates. Applicable rate is governed by actual water use and the norm-based applicable water use for the population being served.*



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- d) *Appellant-PMC should carry out the water audit of the entire distribution system and submit the audit report to this Authority.*
- e) *The Appellant-PMC and the Respondent Nos. 2 & 3 to provide copies of all compliance reports as well as the Affidavits to the Respondent No.4 - Shri. Vitthal D. Jarad, the Original Petitioner/ Complainant before the PDRO.*

8.0 The next date of hearing was 26/09/2019 which was postponed and no hearing was conducted due to the COVID-19 pandemic. The 2nd Compliance Hearing was conducted on 31/12/2020 through Video Conferencing. During the hearing, the Authority gave the following directions;

- a) *PMC should make it compulsory to Builders / Developers to use treated water for construction and no fresh water should be supplied for the construction activities. The policy guidelines for such use of treated water in the construction including the mechanism for such supplies be formulated by PMC within a period of three months of this order so that the use of fresh water in the construction activity can be minimized with the alternate treated water to be supplied. The affidavit in compliance highlighting the steps being undertaken be submitted by the next date of hearing along with the complete data/statistics thereof.*
- b) *PMC should exclude the population in its water budget to whom WRD supplies 1.97 TMC water.*
- c) *Water Audit should be completed on priority & water use by alternate sources should also be considered.*
- d) *PMC should make adequate budgetary provisions for the compliance of the directions issued by this Authority from time to time and for that matter, the General Body as well as Standing Committee of PMC be informed and made fully aware.*
- e) *PMC should also undertake drive for the information and update of the public at large in order to seek their co-operation for the purpose of saving water, use of treated water as well as protection of water in the interest of downstream farmers as well as water utilities.*



f) Having considered the gravity of the issue, a Committee is being formed, to take periodic monitoring of the directions given by this Authority, which is constituted as follows;

- 1) Member (WRE), MWRRA - Chairman
- 2) The Collector, Pune District or his Representative not below the rank of Dy. Collector - Member
- 3) The Chief Engineer, WRD, Pune - Member
- 4) The Chief Executive Officer of Zilla Parishad, Pune or his Representative not below the rank of Dy. CEO - Member
- 5) Additional Metropolitan Commissioner, PMRDA - Member
- 6) Additional Municipal Commissioner, PMC, looking after the affairs of water works in PMC - Member
- 7) The Chief Engineer, MIDC at Pune or his Representative not below the rank of Superintending Engineer - Member
- 8) Shri. Vitthal D. Jarad - Member
- 9) Secretary, MWRRA - Member
Secretary

The Committee shall meet at Pune as and when required for the purpose of meetings of this Committee and such periodic meeting will be held at Sinchan Bhavan, Pune. The Ld. Secretary of this Authority shall co-ordinate with the Committee and shall seek further directions from this Authority as may be necessary for such functioning of the Committee as may be required from time to time. The periodic report of the meeting including its ROP be submitted to the Authority apart from hosting it on website of WRD as well as PMC and this Authority for the information of the public at large.

9.0 Accordingly, the 1st meeting of the said Committee was conducted on 22/04/2021 through Video Conferencing and it was decided to circulate the Compliance submitted by the PMC vide letter 20/04/2021 to all members by email for information. The 2nd meeting of said Committee was conducted on 18/08/2021 in the office of Chief Engineer (WR), Pune. During the meeting following decisions are taken;



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- a) *As per direction given in Para 7 (a) of the Record of Proceedings of the hearing held on 31/12/2020, PMC was directed to frame a policy guidelines for Builders / Developers to use treated water for construction. However, PMC has not complied the said direction. Hence, PMC is directed to prepare & submit the said policy to the Authority without further delay.*
- b) *PMC should curtail its water lifting from Khadakwasala Project in stages as it has started lifting water from the Bhama-Askhed Project.*
- c) *PMC should take steps to reduce Non-Revenue Water.*
- d) *PMC should design & set up Sewage Treatment Plants by considering 80% of the ultimate sanctioned water supply i.e. 11.50 TMC.*
- e) *PMC should arrange a visit of the Committee to Mundhwa Jackwell.*

10.0 Thereafter, the Authority conducted the 3rd Compliance Hearing on 04/02/2022 through Video Conferencing. The Authority directed the Appellant to file a comprehensive affidavit about action taken on the Authority's directions and also directed Superintending Engineer (SE), Pune Irrigation Circle (PIC), Pune to file a Rejoinder.

11.0 The 4th Compliance Hearing was conducted on 17/03/2022 through Video Conferencing. During the hearing, the Authority directed PMC to give a program on Affidavit about the construction of Sewage Treatment Plants (STPs) and also directed both PMC & SE PIC, Pune to comply the suggestions given during the visit at Mundhwa Jackwell on 14/03/2022.

12.0 The Authority conducted the 5th Compliance Hearing in the matter on 29/06/2022 in person. During the hearing, the Authority stated that population figures authenticated by the State Government / Revenue Department should be considered and further stated that the penal action will be taken as per Regulation 27 of MWRRRA (Conduct of Business) Regulations, 2013. The Authority also directed that PMC should file an affidavit on program of construction of STPs and giving 6.5 TMC water for irrigation. The Affidavit should also include measures to be taken for reduction in water demand per day till completion of construction of STPs.



13.0 The Authority conducted the 6th Compliance Hearing in the matter on 28/09/2022 and the following officials were present for the Hearing;

- 1) Shri. Ravindra Binwade — Additional Municipal Commissioner, PMC, Pune for the Appellant
- 2) Shri. Aniruddha Pawaskar — Chief Engineer, PMC, Pune for the Appellant
- 3) Shri. Prasannaraghav Joshi — Superintending Engineer, PMC, Pune for the Appellant
- 4) Shri. Vijay P. Patil — Executive Engineer, Khadakwasla Irrigation Division, Pune - Respondent No. 3
- 5) Shri. Vitthal D. Jarad — Respondent No. 4.

14.0 Shri. Ravindra Binwade submitted that as per the directions given in the previous hearing, the PMC has filed an Affidavit dated 22/09/2022 regarding the construction program of STPs and giving 6.5 TMC treated water to irrigation. He submitted that the project of 'Pollution Abatement of River Mula-Mutha' costing Rs. 990.26 crores was sanctioned on 14/01/2016 with 85% Central Government grant & 15% PMC fund. The project is divided into three packages which include 11 STPs having 396 Million Liters per Day (MLD) capacity and will be completed by March 2025. He further submitted that, in addition, 2 STPs having 105.5 MLD capacity for the newly added 11 villages in the PMC area will be constructed and will be completed by September 2025. The existing 567 MLD capacity of STPs will also be augmented & upgraded considering future demand and may increase to 700 MLD.

15.0 On inquiry of the Authority, Shri. Aniruddha Pawaskar submitted that PMC is taking various measures to reduce water lifting. 43 Elevated Surface Reservoirs (ESR) out of 82 are commissioned and the remaining are in progress. The laying of new distribution lines is being carried out and more than 40% work is completed. Bulk water meters are being installed. He further stated that regarding newly added villages, a Consultant is appointed to study equitable water



distribution. There are no fund constraints. 50 MLD treated water is supplied through tankers for construction, gardening, etc. the PMC has tried alternate day water supply but received lots of complaints. He further stated that with these measures and the completion of the STP project in five years, the Non-Revenue Water will be reduced from 40% to 20%. WRD officials will be given access to water lifting points of PMC and necessary directions will be issued.

16.0 Shri. Vijay P. Patil has submitted that PMC gets water supply from three dams of WRD and current water use is 1732 MLD i.e. about 21 TMC. Newly added villages get water supply from WRD and if PMC is ready to supply water to these villages then that water quota can be given to PMC. Also, there are no arrears of water charges against PMC. WRD is levying water charges and penal charges to PMC as per the MWRRA's Bulk Water Tariff Orders.

17.0 Shri. Vitthal D. Jarad has submitted that he has not received a copy of PMC's latest affidavit. The PMC should be penalised till the situation is improved in addition to penal charges levied by Maharashtra Pollution Control Board. He has filed a written submission in this regard. The Authority informed that there are provisions of penal charges in the MWRRA's Bulk Water Tariff Order for lifting more water than sanctioned quota and for not having STPs as per norms.

18.0 The Authority stated that it has already decided the matter in detail vide Order No. 19/2018 dated 13/12/2018 and it is monitoring the compliance of the directions given to the Appellant. However, the pace of the compliance by the Appellant is not satisfactory. The Authority also noted that it will take a couple of years to see improvement in the matter. Further, it would be proper to have a periodic review of the Authority's Directions by Committee formed under the Chairmanship of Member (Water Resources Engineering) of this Authority instead of regular hearing by the Authority.

19.0 After hearing all the parties, the Authority closed the proceedings for the Order.



Order

20.0 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 Appellant and the Respondents should implement Authority's Order No. 19/2018 dated 13/12/2018 in a time-bound manner.
- (b) A Committee formed under the Chairmanship of Member (Water Resources Engineering) of this Authority, as constituted above, shall take periodic review atleast once in Six Month with regards to the implementation of the directions given by this Authority and submit its report to the Authority.
- (c) The Appeal under Case No. 14 of 2018 is disposed of with no order as to the costs.

Delivered on November 22, 2022.

Sd/-

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

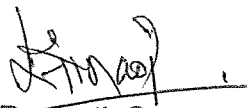
Sd/-

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

Sd/-

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




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