



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)



File No : MWRRRA/2021/Legal/Case No.5(2021)/514

Date : 26/07/2023

Case No 05 of 2021


In The Matter of

A Petition filed by Siddheshwar Pani Vapar Sanstha through Shri. Maruti Sahebrao Bhapkar, Pimpalgaon Pisa, Taluka Shrigonda, District Ahmednagar in the matter of equitable distribution of water in the command of Kukadi Project as per Section 12(6) & 12(7) of MWRRRA Act.

Please find enclosed herewith a copy of MWRRRA Order No. 06/2023 dated 26/07/2023 in the above matter.

Encl : As above




(Dr. Ramnath Sonawane)
Secretary, MWRRRA

Copy for information & necessary action to:-

1. Siddheshwar Water Users Association, Pimpalgaon Pisa, Taluka Shrigonda, District Ahmednagar through Shri. Maruti Sahebrao Bhapkar, Near Kali Mata Mandir, Mohan Nagar, Chinchwad, Pune - 411019. (Petitioner).
2. Secretary (WRM & CAD), Water Resources Department, Mantralaya, Madam Kama Road, Mumbai - 400 032 (Respondent - 1).
3. Executive Director, Maharashtra Krishna Valley Development Corporation, Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune 411011 (Respondent - 2).

4. Superintending Engineer, Kukadi Irrigation Circle, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011 (**Respondent - 3**).
5. Executive Engineer, Kukadi Irrigation Division No. 1, Narayangaon, Taluka Junnar, District Pune - 410504 (**Respondent - 4**).
6. Executive Engineer, Kukadi Irrigation Division No. 2, Shrigonda, District Ahmednagar - 413701 (**Respondent - 5**).
7. Chief Officer, Junnar Municipal Council, Sadabajar Peth, Taluka Junnar, District Pune - 410502 (**Respondent - 6**).
8. Chief Officer, Shirur Municipal Council, Ghodnadi, Taluka Shirur, District Pune - 412210 (**Respondent - 7**).



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

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

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Siddheshwar Water Users Association
Through Shri. Maruti Sahebrao Bhapkar,
Pimpalgaon Pisa, Taluka Shrigonda,
District Ahmednagar.

.....Petitioner

Versus

1. Secretary (WRM & CAD),
Water Resources Department, Mantralaya,
Madam Kama Road, Mumbai - 400 032.
 2. Executive Director,
Maharashtra Krishna Valley Development Corporation,
Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune 411 011.
 3. Superintending Engineer,
Kukadi Irrigation Circle, Sinchan Bhavan,
Barne Road, Mangalwar Peth, Pune - 411 011.
- Executive Engineer,
Kukadi Irrigation Division No. 1, Narayangaon,
Taluka Junnar, District Pune - 410504.



5. Executive Engineer,
Kukadi Irrigation Division No. 2, Shrigonda,
District Ahmednagar - 413701.
6. Chief Officer, Junnar Municipal Council,
Sadabajar Peth, Taluka Junnar,
District Pune - 410502.
7. Chief Officer, Shirur Municipal Council,
Ghodnadi, Taluka Shirur,
District Pune - 412210
8. Chief Engineer (SP) and
Primary Dispute Resolution Officer,
Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune 411 011

.....Respondents

Shri. Maruti Sahebrao Bhapkar for the Petitioner

Adv. Aparna D. Vhatkar for the Respondent Nos. 1 to 5

Adv. H. D. Chavan for the Respondent No. 6

Adv. Manoj M. Badgular for the Respondent No. 7

Coram : Dr. Sanjay Chahande, Chairperson

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

CA. Shwetali A. Thakare, Member (Economics)

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

Date : July 26, 2023

1.0 Siddheshwar Water Users Association (WUA), Pimpalgaon Pisa, Taluka Shrigonda, District Ahmednagar through Shri. Maruti Sahebrao Bhapkar had filed a Petition on 29/06/2021 in the matter of equitable distribution of water in the command of the Kukadi Project as per Section 12(6) (c) of Maharashtra Water Resource Regulatory Authority (MWRRA) Act 2005.

2.0 The Petitioner, in his Petition, submitted that Kukadi Project was proposed to give water to drought-prone areas of the region and they are the farmers from the command of Kukadi Project's Left Bank Canal (KLBC). Kukadi Project consists of a complex of five dams viz. Manikdoh, Wadaj, Yedgaon, Dimbhe and Pimpalgaon Joge. The command of Kukadi Project falls under



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Maharashtra Water Resources Regulatory Authority

9th & 11th Floor, Centre-1, World Trade Centre, Cuffe Parade, Mumbai-400005.

some talukas of Pune (Ambegaon, Shirur, Junnar), Ahmednagar (Parner, Shrigonda, Karjat-Jamkhed) and Solapur (Karmala) Districts. The total irrigation potential of Kukadi Project is 1,55,056 ha of which 55,375 ha in Pune District, 75,119 ha in Ahmednagar District and 24,562 ha in Solapur District. As per the Project Report, based upon the command area, Pune District should get 30-35 percentage of water and Ahmednagar & Solapur District should get 65-70 percentage of water. But in actual, this happens in reverse.

3.0 The Petitioner, in his Petition, further submitted that Shri. Rahul Jagtap & others had filed a Petition before the Primary Dispute Resolution Officer (PDRO) and Chief Engineer (SP), Water Resources Department (WRD), Pune on 09/04/2019 in the matter of equitable distribution of water of the Kukadi Project. The PDRO, vide its Order dated 10/12/2019, had directed that as per the provisions in the Project Report of Kukadi Project and as per Section 12 (6) of MWRRA Act 2005, canal-wise and Taluka-wise equitable distribution of water should be proposed in Canal Advisory Committee (CAC) and accordingly it should be distributed. The PDRO also ordered that as there is no provision in the approved project report to release water to Kolhapur Type (K. T.) Weirs and Percolation Tanks, the said request cannot be granted. Thereafter, CAC decided to release 2.25 Thousand Million Cubic feet (TMC) of water from Dimbhe dam to fill K. T. Weirs on Kukadi, Ghod and Meena River on 27/12/2020. For Hot-weather season planning of Kukadi Project, the CAC on 09/04/2021 decided rotation program for canals except for KLBC to use 3.00 TMC water from the dead storage of the Pipalgaon Joge Project and to release 2.00 TMC water immediately to K. T. Weirs on Kukadi, Ghod and Meena Rivers. The CAC decided to release the water for these K. T. Weirs even though it has been informed that those weirs are not part of Kukadi Project.

4.0 The Petitioner, in his Petition, further submitted that Shri. Prashant Auti through Writ Petition (St) No. 10246 of 2021 approached the Hon'ble High Court at Bombay on 06/05/2021 to stay the rotation of KLBC. Then as per the request of Shri. Auti, the Hon'ble Court vide order dated 17/05/2021, ordered that the Writ Petition is disposed of as withdrawn.

5.0 The Petitioner, in his Petition, further submitted that as per the Kukadi Project Report, out of 39 TMC of water, KLBC provision is 21 TMC in the Project Report. But Parner, Shrigonda, Karjat and Karmala taluka received about 12 - 13 TMC water from KLBC in the last 25 years and even water did not get when it was required most. Also, due to a shortage of water in the



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reservoirs, illegal lift permissions given from Yedgaon dam's reservoir and water released for drinking purposes for Junnar and Shirur Municipal Councils being used for irrigation illegally, water supply to KLBC gets affected most of the time. Therefore, the Petitioner filed the present Petition before this Authority.

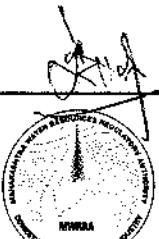
6.0 The Petitioner, through its Petition prayed for the following reliefs:

१. कुकडी प्रकल्पांतर्गत एकूण ३९ टीएमसी पाण्यापैकी कुकडी डाव्या कालव्याला प्रकल्प अहवालानुसार प्रकल्प तरतूदीप्रमाणे मंजूर असलेल्या लाभक्षेत्रांत येणाऱ्या सर्व लाभधारक शेतकऱ्यांना समन्यायी पध्दतीने पाणीवाटप खरीप, रब्बी व उन्हाळी हंगाम म.ज.नि.प्रा. कलम १२ (६) नुसार कालनिहाय व तालुकानिहाय पाण्याचे वाटप व्हावे, असे आदेश व्हावेत. या आदेशाचे दरवर्षी तंतोतंत नियमित पालन व्हावे.
२. दरवर्षी १५ ऑक्टोबर नंतर लगेच कालवा सल्लागार समिती व अधिकाऱ्यांची बैठक होऊन कुकडी प्रकल्पातल्या सगळ्या धरणात एकूण किती पाणी साठा जमा झाला ? त्यापैकी प्रकल्प अहवालानुसार कुकडी डाव्या कालव्याचा हिस्सा किती व इतर कालव्यांचा हिस्सा किती ? संपूर्ण वर्षभराचे खरीप, रब्बी, उन्हाळी आवर्तन केव्हा सुटणार त्याच्या तारखा, कालावधी व प्रत्येक आवर्तनाला किती टीएमसी पाणी सोडणार असा वर्षभराचा कार्यक्रम (टाईमटेबल चार्ट) निश्चित करून तो दरवर्षी जाहीर करण्याचे आदेश प्रतिवादींना देण्यात यावेत.
३. कुकडी प्रकल्पाच्या पाण्याचे वाटप होताना येडगाव धरणातून पाणी सोडल्यावर शीर्ष भागातील काही तालुक्यांना पाझर तलाव, को.प. बंधाऱ्यांना पाणी सोडण्यात येते. त्यामुळे पुच्छ भागातील तालुक्यांना पाणी उशीरा मिळते. त्यामुळे पुच्छ ते शीर्ष सिंचन (Tail to head irrigation) या तत्त्वानुसार राबवण्याचे म.ज.नि.प्रा. च्या कलम १२(७) नुसार आदेश व्हावेत.
४. कुकडी प्रकल्पाच्या अहवालानुसार को.प. बंधाऱ्यात पाणी सोडण्याची तरतूद नसताना बेकायदेशीरपणे दरवर्षी पाणी सोडण्यात येते. हे पाणी ज्या त्या तालुक्याच्या पाणी वाटपामध्ये सामावेश करण्याचे आदेश व्हावेत.
५. कुकडी डावा कालव्याला पाणी येताना पुणे जिल्ह्यात पाझराच्या नावाखाली जो पाण्याचा गैरवापर होतो त्याचा त्या त्या तालुक्याच्या पाणी वापरामध्ये सामावेश करण्याचे आदेश व्हावेत.
६. येडगाव धरणावर १० हजार हेक्टर क्षेत्राला जलाशय उपसाच्या दिलेल्या परवानग्या बेकायदेशीर आहेत त्या रद्द करण्याचे आदेश व्हावेत.



७. एखाद्या वर्षी धरणांत पाणी साठा कमी झाल्यास त्याची झळ फक्त डाव्या कालव्याला न बसता ती समन्यायी पध्दतीने प्रत्येक तालुक्यांनी सारखी सोसावी असे आदेश व्हावेत.
८. जुन्नर शहराला पिण्याच्या पाण्याच्या नावाखाली १० दिवसाला १० एमसीएफटी असे मिळून माणिकडोह धरणातून वर्षाला १ टीएमसी पाणी नदीला व उपबंधाऱ्यांना सोडले जाते, तर शिरूर नगरपालिकेस पिण्याच्या नावाखाली १/२ टीएमसी पाणी सोडले जाते. मात्र पिण्याच्या नावाखाली सोडलेले पाणी बेकायदेशीररित्या शेतीसाठी वापरले जाते. ते बंद करण्याचे आदेश व्हावेत, त्यावर नियंत्रण ठेवणारी समिती स्थापन करून त्यांना कारवाईचे अधिकार द्यावेत.
९. जुन्नर व शिरूर नगरपालिकेला पिण्यासाठी बंद पाईपद्वारे पाणी पुरवठा करण्यात यावा असे आदेश व्हावेत.
१०. प्राथमिक विवाद निवारण अधिकारी यांच्याकडे पाणी तक्रार अर्ज १/२०१९ च्या १०/१२/२०१९ च्या निर्णयाचा अवमान झाला आहे. हा निर्णय घेणारी कालवा सल्लागार समिती बरखास्त करून दरवर्षी पाणी वाटपाचे नियोजन करण्यासाठी तीन निवृत्त न्यायाधीशांची समिती नियुक्त करण्याचे आदेश व्हावेत.
११. कुकडी प्रकल्प सल्लागार समिती व अधिकाऱ्यांच्या गलथान व नियोजनशून्य, भ्रष्ट कारभारामुळे माझे व शेतकऱ्यांचे मोठे आर्थिक नुकसान झाले आहे. त्यामुळे मला व शेतकऱ्यांना आर्थिक, मानसिक, शारीरिक त्रास सहन करावा लागल्याने पारनेर, श्रीगोंदा, कर्जत, करमाळा येथील शेतकऱ्यांच्या झालेल्या नुकसानीचे पंचनामे करून माझ्यासह सर्व नुकसानग्रस्त शेतकऱ्यांना भरपाई मिळावी व या प्रकरणी दोषींवर फौजदारी गुन्हे दाखल व्हावे असे आदेश व्हावेत.
१२. न्यायाच्या दृष्टीने व पारनेर, श्रीगोंदा, कर्जत, करमाळा तालुक्यामधील शेतकऱ्यांच्या हितासाठी आवश्यक ते निर्णय घ्यावेत व शेतकऱ्यांच्या मानवी हक्कांचे रक्षण करावे.

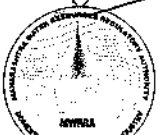
7.0 After filing the Petition on 29/06/2021, the Authority scrutinised the Petition and the Authority, vide letter dated 20/10/2021, directed the Petitioner to rectify the defects. After the defects were rectified by the Petitioner, the Authority vide letter dated 20/12/2021, directed Respondents to file a para-wise Affidavit in Reply within four weeks. Accordingly, Chief Officer, Shirur Municipal Council - Respondent No. 7, vide letter dated 07/01/2022 had filed their say and submitted that Shirur Municipal Council is 150 year old C - class Municipal Council. The State Government has granted a 1.22 Million Cubic Meter (MCM) water reservation from the K. T. Weir on Ghod River near Shirur city on 19/11/1995. However, this reservation does not meet the present water requirement which is 3.16 MCM based upon the norm of 135 liters per day. Therefore, Shirur Municipal Council has submitted a proposal



of a direct closed pipeline from Ghod reservoir to the Commissioner & Director, Directorate of Municipal Administration to meet the additional water requirement and to reduce conveyance losses.

8.0 The Authority conducted the first hearing in the matter on 09/06/2022. During the hearing, the Petitioner briefed the matter and submitted that he has approached this Authority for equitable distribution of water in the command of Kukadi Project as per Section 12(6) & 12(7) of the MWRRA Act. He also submitted that he is not challenging the PDRO's Order dated 10/12/2019. Superintending Engineer, Kukadi Irrigation Circle, Pune - Respondent No. 3 submitted that the State Government had directed him to file a reply on behalf of Respondent No. 1 to 5 and given approval to a para-wise reply. The Kukadi Project is getting an average yield of about 29 TMC water as against the design yield of 39 TMC. The KLBC has also received its full allocation in some years. The issues, regarding the overlapping of command and making K. T. Weirs part of the Kukadi Project, are placed before the State Government for its consideration. The Authority directed the Respondents should file a para-wise Affidavit in Reply stating therein the reasons why Canal Level or Project Level Associations are not formed. The Authority also directed the Petitioner to file an Affidavit regarding jurisdiction as per Regulation 12 (2) (b) of Maharashtra Water Resource Regulatory Authority (Conduct of Business) Regulations, 2013 and may file a Rejoinder on Respondent's Affidavit in Reply.

9.0 As per the directions given during the hearing, Superintending Engineer, Kukadi Irrigation Circle, Pune filed Para-wise Affidavit in Reply on behalf of Respondents dated 23/06/2022. The Respondent submitted that every year based upon water storage in the dam on 15th October, CAC under the chairmanship of Hon. Minister, WRD makes the seasonal water planning and it is being implemented. CAC has people's representatives of the command, officers of other departments, representatives of WUAs and farmer's representatives. CAC with the consent of all representatives finalise the rotation dates. As per the provisions in the Project Report and the decisions of CAC, season-wise equitable distribution of water allocation for Kukadi Project command is planned. As per the approved project report, the annual water use of Kukadi Project is 39.366 TMC of which 33.333 TMC is for irrigation. KLBC's sanctioned annual water use is 20.673 TMC but in the last 21 years, its average annual water use is 15.075 TMC. The water availability of Kukadi Project at 75% dependability is about 40.71 TMC but in last 20 years, average of 29.22 TMC water was received i.e. shortage of 11.49 TMC.



- 10.0 The Respondent further submitted that regarding lift permission from Yedgaon Dam, these are given only to the total area of 3042 ha as per Government Resolution (GR) and there is no illegal water use. The less water availability in the dams affects all the command of Kukadi Project. State Government has granted water reservation of 44.39 Million cubic feet (Mcft) of water from weir on Kukadi River for Junnar city and 43.09 Mcft & 111.95 Mcft of water from weir on Ghod River for Shirur city. However, the conveyance losses were not considered while sanctioning these reservations. To overcome this, 111.95 Mcft of water revised reservation sanctioned from Manikdoh dam for Junnar city and 80.91 Mcft of water revised reservation sanctioned from Ghod dam for Shirur City. The original water reservations will be cancelled once water supply scheme as per revised water reservations is implemented. Therefore, the Respondents requested that the prayers of the Petitioner should not be approved and the Petition be disposed of.
- 11.0 The Petitioner, as per the directions given during the hearing, filed an Affidavit dated 06/07/2022 on the jurisdiction. The Petitioner submitted that he has filed the present petition as per provision in Article 14, 21 and 39 of the Indian Constitution and as per 11 (a), (b), (c), (d), (e) and (g) (1) & (6), Section 12 (6) (a), (b) & (c), (7), (8), (9), (10)(a) and Section 13 of MWRRA Act, 2005. The PDRO, in its order dated 10/12/2019 has rejected the demand of filling of K. T. Weirs from Kukadi Project as these weirs not part of the Kukadi Project. However, PDRO's order is not being implemented and it has adversely affected thousands of KLBC farmers. Therefore, this petition is filed before this Authority.
- 12.0 As per the directions given in the hearing, the Petitioner also filed a Rejoinder dated 11/07/2022 on the Respondent's Affidavit in Reply dated 23/06/2022. The Petitioner submitted that KLBC is 249 Km long having irrigable command area of 1,28,881 hectare. As per WRD's Government Resolution (GR) No. कासस २०१५/प्र.क्र. १६२/२०१५/सि.व्य. (म) dated 18/03/2016, Member Secretary of the CAC is responsible for conducting the meetings in time and giving wide publicity of CAC's decision and rotation dates, which is not done. CAC, for Rabi season 2020-21, has decided to give 2.25 TMC of water for 65 K. T. weirs to irrigate 25,000 hectare and 1.09 TMC of water to irrigate 30,390 hectare in Shrigonda Taluka, which is not equitable distribution of water. The water discharged in KLBC is not enough which takes more time to reach tail end of canal. CAC, in last two years, conducted meeting after irrigation season started i.e. average delay by 45 days. As there is no Canal or Project level WUA, there is no say of WUA in CAC. Though there is water available in the dam, KLBC does not get water in equitable manner.



13.0 The Petitioner further submitted that as per Original Project Report, KLBC was getting 24.15 TMC water, then Kukadi Project's command increased and as per 3rd Revised Project Report, 20.673 TMC of water allocated to KLBC. Water released for Junnar and Shirur Rural water supply is mainly used for irrigation. KLBC gets less water than project allocated. The concerned should be directed to do repair and maintenance work of KLBC and Dimbhe Left Bank Canal to reduce conveyance losses. Thus, Petitioner prayed to implement the PDRO's order and requested to direct Respondent to submit information regarding rotation program, canal & distributary network designs, Irrigation Status Report and Benchmarking Report.

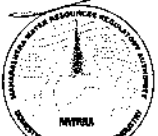
14.0 Superintending Engineer, Kukadi Irrigation Circle, Pune filed Additional Affidavit in Reply on behalf of Respondents No. 1 - 5 dated 25/07/2022. The Respondent submitted that as per sanctioned Revised Project Report, 75% dependable yield of Kukadi Project is 40.71 TMC and average dependable yield in last 20 years 75% is 29.22 TMC i.e. deficit of 11.49 TMC. Therefore, all canals received less water than their planned water use and equitable & proportionate distribution of water has been done. As it was not possible to schedule KLBC Hot Weather 2021 rotation within the available live storage in dams, CAC decided in larger public interest to use 3.50 TMC from Pimpalgaon Joge dead storage. CAC has also decided to release 2.00 TMC water in larger public interest for K. T. weirs. CAC is an Apex Body for water planning of Kukadi Project and has taken decision based on larger public interest. As per above said GR dated 18/03/2016, CAC is headed by Hon'ble Minister, WRD and local members of Parliament, Legislative Assemble, Legislative Council, other Public representatives, officers of WRD, Revenue Department, Agriculture Department etc. WUAs are formed on 88,106 hectare out of created culturable command area of 1,86,097 hectare. It is planned to form Canal Level WUA and then Project Level WUA after creation of entire project irrigation potential.

15.0 The Authority conducted second hearing in the matter on 05/08/2022. After hearing all the parties, the Authority directed Respondents No. 1 - 5 to file an Affidavit on which legal grounds, jurisdiction and provision of law, CAC has decided to release water to fill Kolhapur Type Weirs which are not part of DPR. The Authority also directed Respondent No. 6 - Junnar Municipal Council and Respondent No. 7 - Shirur Municipal Council to file their say.

Accordingly, Respondent No. 7 - Shirur Municipal Council, vide Affidavit dated 28/09/2022, denied all the contentions about the Council in the Petition and submitted that said Council is 150 year old C - class Municipal



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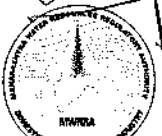
Council having population of 37111 as per 2011 census. But the Council, along with its own population, has to cater the needs of nearby Industrial units and people coming in the city for work. The State Government has granted 1.22 MCM water reservation from the K. T. Weir on Ghod River near Shirur city on 19/11/1995. However, this reservation does not meet the present water requirement which is 3.16 MCM based upon norm of 135 liters per day. Therefore, the Council has submitted a proposal of direct closed pipeline from Ghod reservoir to the Commissioner & Director, Directorate of Municipal Administration to meet the additional water requirement and to reduce conveyance losses.

17.0 As per directions given in the hearing, Superintending Engineer, Kukadi Irrigation Circle, Pune filed an Additional Affidavit in Reply on behalf of Respondents No. 1 - 5 dated 25/07/2022. The Respondent submitted that CAC is formed as per above said GR dated 18/03/2016 and it has also stated the CAC's jurisdiction. Kukadi Project is an eight monthly project and 65 K. T. weirs are not included in the Kukadi Project. CAC was informed by Superintending Engineer and Member Secretary about it but decided to release water for supplementing K. T. weirs based on water availability and in larger public interest.

18.0 Junnar Municipal Council - Respondent No. 6, vide Affidavit dated 04/10/2022, denied all the contentions about the Council in the Petition and submitted that said Council is 162 year old C - class Municipal Council having population of 25315 as per 2011 census. But the Council, along with its own population, has to cater the needs of tourist coming in the city for visiting Lenyadri Temple and Shivneri Fort. The State Government has granted 1.215 MCM water reservation from the K. T. Weir on Kukadi River. However, this reservation does not meet the present water requirement which is 3.417 MCM based upon norm of 135 liters per day. Therefore, the Council has submitted a proposal of 9.42 Km long direct closed pipeline from Manikdoh reservoir to Maharashtra Jeevan Pradhikaran to meet the additional water requirement and to reduce conveyance losses.



19.0 Petitioner also filed an Affidavit dated 04/10/2022 and reiterated the submissions made in the earlier affidavits. He also submitted that 65 K. T. Weirs on Ghod, Meena and Kukadi River were not part of Kukadi Project's original project report. But, a proposal in this regard is submitted to WRD in April 2022 to make these K. T. Weirs part of Kukadi Project which was approved in principle in June 2022 by WRD. However, Kukadi Project and 65 K. T. Weirs are independent projects and received different administrative



approvals having different catchment areas. Farmers in overlapping command area get water from two sources i.e. from canal during rotation and from K. T. Weirs. It seems that it is being intentionally done to have assured water supply for year to these K. T. Weirs. Due to this, farmers in drought prone talukas may not get water as per project report. Therefore, it is prayed to cancel the WRD's in principle proposal.

20.0 The Authority conducted third hearing in the matter on 06/10/2022. During the hearing, the Petitioner submitted that a proposal of making 65 K. T. Weirs, a part of the Kukadi Project is submitted to the Additional Chief Secretary, WRD on 06/04/2022 which was approved in-principle on 28/06/2022. The Authority stated that as it is in-principle approval and not a final approval. Even as per WRD's GR dated 18/03/2016, CAC has to take decisions as per the provisions of the MWRRRA Act, 2005. The Authority directed Respondents No. 1 - 5 to submit the proposal to WRD about CAC's powers & jurisdiction within two weeks and WRD should take a decision within one month and then the Respondent should file the Affidavit accordingly. The Authority also directed Respondent No. 6 - Junnar Municipal Council and Respondent No. 7 - Shirur Municipal Council to file their Affidavit on construction program of the direct pipeline, details of sanctioned quota, annual requirement & present use, and status of Sewage Treatment Plant.

21.0 As per directions given in the hearing, Superintending Engineer, Kukadi Irrigation Circle, Pune filed Additional Affidavit in Reply on behalf of Respondents No. 1 - 5 dated 16/12/2022 and submitted that WRD vide letter dated 08/12/2022, has given clarification. It is stated that as per said GR, CAC is an advisory type committee and to take decisions in accordance with provisions of Maharashtra Irrigation Act 1976, MWRRRA Act, Maharashtra Management of Irrigation System by Farmer's Act 2005 and State Water Policy. If any decision is not accordance with above Acts, then implementation authority should referred it to WRD for clarification. WRD may consider the case on merit and either approve CAC's decision or give suitable directions to implementation authority.

22.0 Junnar Municipal Council - Respondent No. 6, vide affidavit dated 27/12/2022, submitted that the proposal additional water supply i.e. direct closed pipeline from Manikdoh dam to Junnar city has been submitted to Principle Secretary, Urban Development Department. The present annual sanctioned water use quota is 2.918 MCM. The work of design and estimate preparation of Sewage Treatment Plant is under process. Shirur Municipal



Council - Respondent No. 7, vide affidavit dated 16/12/2022, submitted that the proposal additional water supply i.e. direct closed pipeline from Ghod dam to Shirur city has been submitted to Commissioner & Director, Directorate of Municipal Administration. The present annual sanctioned water use quota is 2.291 MCM. A Sewage Treatment Plant of 6.00 Million liters per day capacity is working and at present 5.20 Million liters per day sewage water treated.

23.0 As per the directions given in the hearing, the Petitioner also filed a Rejoinder dated 19/12/2022 on Respondents No. 6 and 7 Affidavit in Reply. The Petitioner submitted that the work on direct pipeline for new water supply scheme, which is sanctioned for Junnar city in February 2019 and Shirur city in November 2021, has not started till date. The major portion of water released for drinking purpose for Junnar and Shirur city is being illegally lifted for irrigation and K. T. weirs get filled. Due to this, KLBC get less water for rotation. Therefore, it is prayed that Junnar and Shirur city should get water as per their sanctioned quota and both cities should protect their water from illegal lifting. Both Councils should be directed to complete the direct closed pipeline scheme in time bound manner.

24.0 The Petitioner also filed a Rejoinder dated 10/01/2023 on Respondents No. 1 - 5 Affidavit in Reply dated 16/12/2022. The Petitioner submitted that WRD's clarification is of general kind and there is no confirmation of implementation of CAC's illegal decision. As the present matter is pending before this Authority, CAC has illegally made provision 2.00 TMC of water for 65 K.T. weirs during meeting of Rabi season of 2022-23. CAC's decision taken in larger public interest is of deceiving nature. On one side interest of farmers of certain areas are protected and on other side, farmers in drought prone talukas are deprived of their rightful of water. As per provisions in the above said GR dated 18/03/2016, CAC has to take decision. But, years together, CAC is taking illegal decision of releasing water to K.T. weirs even though all the facts submitted before it. CAC main function is to give 'Advice', but the Administration is implementing CAC's decision without verifying its standing on legal ground and as per project report provision.

The Petitioner reiterated the submissions and prayers made in his earlier affidavits and submitted that Report of the Committee formed for water use of Kukadi Project as per approved project report should be placed before this Authority and independent inquiry about canal breakage of Kukadi and Dimbhe dams.



26.0 The Authority conducted fourth hearing in the matter on 12/01/2023. During the hearing, the Authority observed that the Petitioner approached this Authority for non-implementation of PDRO's order but the PDRO was not made a party in the present matter. Some of the issues, raised in this matter, were not raised before the PDRO. The Authority directed the Petitioner to make PDRO as Respondent in the present matter, amend the Petition accordingly and serve the copy of same to PDRO. The Authority also directed Respondents to file written arguments and PDRO to file his say.

27.0 As per the directions given in the hearing, Petitioner has made PDRO as Respondent and served the copy of Petition to PDRO. However, Respondents No. 1 - 5 did not file written arguments. Also, PDRO Respondents No - 8 did not file his say. The Petitioner, in his additional affidavit dated 08/03/2023, submitted that KLBC does not get 62% rightful water after 15th October. Ambegaon, Junnar and part of Shirur falls under high rainfall zone and does not require irrigation rotation in Kharip season. But, Parner, Shrigonda, Karjat and Karmala are in drought prone region and require irrigation rotation in Kharip season which starts after filling of Kukadi Project. The water released in KLBC at the end of August month is mainly overflow water which is mostly unused due to return rainfall in the month of September. This excess overflow water released to KLBC is considered in an annual water use. Due to this, KLBC gets less than 62% water in Rabi & Hotweather season. The details of last 20 years annual water use of Kukadi Project submitted by the Respondents No. 1 - 5 in the affidavit gives wrong and misleading conclusion.

28.0 The Authority conducted fifth and final hearing in the matter on 27/04/2023. During the hearing, the Authority heard both the parties and the Authority closed the proceedings for the Order. The State Government's letter dated 28/06/2022 regarding inclusion of K. T. Weirs command area as a part of Kukadi Project was also deliberated.

29.0 In the light of the provisions contained in the relevant Acts, GRs and this Authority's Orders, the observations of the Authority are as follows;

- (a) Kukadi Project is an integrated project comprising the five dams i.e. Dimbhe on Ghod River, Vadaj on Mina River, Manikdoh and Yedgaon on Kukadi River and Pimpalgaon Joge on Aar (Pushpavati) River. The project provides irrigation to a scarcity area of 1,44,912 hectare in Pune, Ahmednagar and Solapur district with eight monthly cropping pattern. The Petitioner's primary prayer is equitable distribution of water in the command of Kukadi Project.



- (b) K. T. Weirs on Kukadi, Ghod and Meena River are planned to be filled from the runoff of free catchment below Kukadi complex and not planned to be filled from Kukadi releases. These K. T. weirs are designed to provide irrigation water in Rabi season only.
- (c) CAC is constituted as per WRD's GR No. कासस २०१५/प्र.क्र.१६२/२०१५/सि.व्य.(म) dated 18/03/2016. According to the said GR, CAC is for a particular project and its function is limited to planning of annual water use of that particular project.
- (d) CAC decided the issue of release of water to K. T. Weirs, even though they are not part of Kukadi Project's latest Project Report.
- (e) However, being aggrieved by the decision of CAC to release water to K. T. Weirs, the Petitioner approached this Authority.

30.0 So far as the jurisdiction of this Authority is concerned;

- a) The Petitioner approached this Authority through Petition dated 29/06/2021 under Article 14, 21 and 39 of the Indian Constitution and as per 11 (a), (b), (c), (d), (e) and (g) (1) & (6), Section 12 (6) (a), (b) & (c), (7), (8), (9), (10)(a) and Section 13 of MWRRA Act, 2005.. The Petitioner has mainly prayed equitable distribution of water in the command of Kukadi Project as per Section 12(6) & 12(7) of MWRRA Act.
- b) As per Section 22 of the MWRRA Act 2005, disputes arising out of issuance or delivery of entitlement are to be resolved by the PDRO and this Authority. However, the Petitioner in the present matter has not filed a Petition under Section 22 of the MWRRA Act, 2005.
- c) The Section 11(b) of the MWRRA Act, 2005 in the context of the powers of the Authority reads as below;

"to enforce the decision or orders issued under this Act."

- d) The subject matter of this Petition is related to non-implementation of the Order of PDRO issued under Section 22 of the MWRRA Act, 2005. Therefore, considering above provision, this Authority has jurisdiction to adjudicate the present matter under Section 11(b) of the MWRRA Act, 2005.



31.0 The Petitioner basic prayer is for the distribution of water in Kukadi Left Bank Canal as per the section 12(6) of the MWRRA Act. Second, he prays that the yearly timetable of water releases, based on the storage as on 15th October every year be issued. Further, his prayers are that the principle of Irrigation from "Tail to Head" as per section 12(7) of the MWRRA act be

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adhered to; the water being release to K.T. Weirs is illegal, and the released water to the K.T. weirs should be considered as the part of that taluka's water entitlement; water is being misused in the form of seepage water that also be included as part of these taluka's water entitlement; and the Lift Irrigation permissions permitted in Yedgaon are illegal and hence the permission be cancelled.

32.0 The Petitioner further demands that, if there is a shortage of rainfall and if there is a less storage in the project, then such shortage be equitably borne by all Talukas and not by the talukas catered to by the Kukadi Left Bank Canal. The water released for Junnar and Shirur cities is illegally used for irrigation purpose and that needs to be stopped. Junnar and Shirur Councils be supplied water with the pipelines. He also prays that the Canal Irrigation Committee be dissolved & committee consists of 3 retired judges be constituted. Further, the damages caused to him and other farmers, mainly because of mismanagement and corrupt practices of advisory committee and officers, be compensated and officers be prosecuted.

33.0 At last he prays, appropriate orders should be passed to give justice to the Parner, Shrigonda, Karjat and Karmala Talukas.

34.0 As seen from the Operating part of the order of PDRO dated 10/12/2019, PDRO has passed following order.

1. As per the provisions in the Project Report and as per Section 12 (6) of MWRRRA Act 2005, Canal-wise and Taluka-wise equitable distribution of water for all beneficiary farmers in the sanctioned command should be proposed in CAC and accordingly it should be distributed.
2. As there is no provision in the approved project report to release water to Kolhapur Type Weirs and Percolation Tanks, the said request cannot be granted.
3. As per Section 12(7) of the MWRRRA Act, principle of 'Tail to Head' should be implemented in water distribution during rotation period of Kukadi Project.
4. Planning should be done according to the availability of water to give full sanctioned seasonal quota approved for agriculture.

35.0 Thus as seen from this order the main grievance of petitioner are addressed positively by the PDRO. During the hearing, the petitioner contended that, order of PDRO has not been implemented. His main contention and grievance was pertaining to the decision taken by the CAC to released water



for the K.T. Weirs. PDRO has already ordered that as per the approved project, the water cannot be released for the K.T. Weirs. Hence, the concerned Canal Officer is mandated to conform to the orders given by the PDRO.

36.0 So far as the CAC is concerned, it is seen that the Superintendent Engineer, Kukadi Irrigation Circle has filed an affidavit dated 16/12/2022. This affidavit is filed in accordance with the earlier order of the authority dated 19/10/2022, where by, it was asked by the Authority to submit the proposal to WRD about the decisions of the CAC. The affidavit mentioned the composition and the scope of the activities of the CAC. The affidavit clearly mentions that as per the Government Resolution dated 18/03/2016, CAC is advisory in nature and the CAC is supposed to take decisions in accordance with the provision of Maharashtra Irrigation Act (1976), MWRRRA Act (2005), Maharashtra Management of Irrigation System by Farmers (MMISF) Act (2005) and State Water Policy. The affidavit further mentions that if any decision of CAC is not in accordance with the above provisions and if any implementation authority is of the opinion that the order of the CAC is not in the larger public interest, then that decision of the CAC should be referred to WRD. Water Resources Department would further act on such references and clarify what is to be done by the implementing authority. In this case the issue of the releasing water for K.T. Weirs, the decision which was taken by CAC, was the issue of contention. But, it needs to be mentioned that the PDRO has already given his verdict on the matter and thus, his decision needs to be implement. The procedure to be adopted by the department and the implementation agencies is in the purview of the department and its Officers. However, as clearly mentioned in the affidavit itself, that any decision of CAC has to be in accordance with Maharashtra Irrigation Act (1976), MWRRRA Act (2005), MMISF Act (2005) and State Water Policy.

37.0 However, in respect of the making K. T. Weirs part of Kukadi Project, the Petitioner brought to the notice of the Authority the letter dated 28/06/2022 of WRD. This letter is in principle approval given to the proposal submitted by Respondent No. 2 to the WRD vide letter dated 06/04/2022. It is seen that this letter is on the subject of including K. T. Weirs which are in the command area of Kukadi Project in Ambegaon, Junnar and Shirur talukas in Kukadi Project Plan. Further, this letter proposes that there are total 65 K. T. Weirs which covers 22,670 ha of command area and this is overlapping command of Kukadi Project. There would be saving of 4.94 TMC water in Kukadi Project. The letter proposes 2.552 TMC water in Kukadi Project to fill K. T. Weirs from this saved water and to do replanning of Kukadi Project.



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However, this letter has also highlights some bottlenecks, policy issues and also underlined, because of technical reasons, proposes the construction of Dimbhe-Manikdoh Tunnel. It also highlights the possibility of less water availability for KLBC rotation if water is released from Yedgaon dam to K. T. Weirs on Kukadi River. Also, the possibility of conflict due to water demand on same time by farmers on Canal and K. T. Weirs. The WRD, vide its letter dated 28/06/2022, has given in principle approval and also asked the Respondent No. 2 to submit proposal as per GR dated 16/11/2016. If this GR is seen, then it lays down the procedure for obtaining Revised Administrative Approval to irrigation projects involving change in scope.

Thus, even though the PDRO has given order that there is no provision of releasing water to K. T. Weirs, the above discussed proposal proposes to change the command of Kukadi Project and reserve 2.552 TMC water for K. T. Weirs. The Government would be well within the rights to act as per policy laid down in the GR dated 16/11/2016. However, it will have to ensure that command under K. T. Weirs will not get benefits from multiple sources. Further, appropriate steps will have to be taken to denotify overlapping command area. The interest of area falling under KLBC and thus concerned raised by the Petitioner will also have to be considered by the State Government. Thus, the issue raised by the Respondent No. 2 vide letter dated 06/04/2022 and particularly that of construction of tunnel will have to be taken up. However, it needs to be mentioned that till Government finalises the process as mentioned in Government letter dated 28/06/2022 as above, the directions given by PDRO will have to be followed.

38.0 The other important point raised in the petition was distribution of water according to the section 12(6) of the Authority. The petitioner was asked to clearly bring forth the data to support his contentions that the existing distribution is not according to the act. The petitioner has submitted his contention in a separate affidavit dated 11/07/2022. The Respondent i.e. Superintendent Engineer, Kukadi Irrigation Circle, filed the comprehensive affidavit dated 23/06/2022 whereby he has given the bifurcation of left bank and right bank canal and the water released to the left bank canal from the year 2020-21. His arguments, based on the affidavit & also oral submission in the hearing dated 12/01/2023 is that the quantity water received by the Left Bank Canal has always been as per its project entitlement i.e. around 62 percent of the total available water. Based on his submission, it can be said that broadly there is distribution of water as per the planning of the project.



39.0 So far as the prayers about drinking water of the Councils, the councils of Junnar and Shirur has filed their affidavit dated 04/10/2022 and 28/09/2022 respectively. There in it is stated that the proposal has already been submitted to the concerned authorities for supplying the water to the councils by piped water rather than releasing water through canals. It is expected that appropriate steps would be taken in this direction as ultimately the efficient use of water for each sector has to be given primacy and thus it is imperative that all appropriate steps are taken to minimize the wastage. In this regard, Respondents No. 2 - 5 shall also check the possibility of water supply to these councils through nearest canal outlet during the rotation. Further, the officers of the Irrigation Department must release the water absolutely in proportion to the need of drinking water of these councils, which should be based on essential demand raised by the councils from time to time. The Councils should also ensure that the water released for them and also water stored in their respective K. T. weirs is not illegally lifted for irrigation.

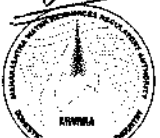
40.0 So far as the issue of water seepage is concerned, the officers of the WRD need to ensure that the appropriate plan of repair is undertaken and adequate resources are made available for repair of the Right Bank Canal system to address the grievances of the petitioner.

41.0 Regarding issue of illegal lift permissions given on Yedgaon Dam, Officers of WRD need to ensure that the lift permissions should be given as per WRD's GR dated 21/11/2002. If any illegal lifting is done, appropriate action to be taken as per the law.

42.0 Regarding dissolution of CAC and compensation for affected farmers, State Government constituted CAC as per WRD's GR dated 18/03/2016 and issue of compensation falls under Maharashtra Irrigation Act, 1976. Thus, on both these issues this Authority has no jurisdiction.

43.0 Petitioner also brought up the issue of declaration of proper program of water release based on the storage as on 15th October. In this regard, State Government vide above said WRD's GR dated 18/03/2016 has constituted the CAC. As per the said GR, CAC's function relevant in this context are as follows;

- a) To give recommendation after discussion on annual water planning of project, review of implementation of previous season's Participatory Irrigation Program and water planning of current season.



- b) To discuss and suggest measures on difference between irrigation potential created and actual area irrigated of project.
- c) To review the implementation of water entitlement of WUAs as per provisions of MMISF Act, 2005 and to give suggestions after discussion on difficulties in working of WUAs.
- d) To plan the optimal and conjunctive use of surface and groundwater in the command, to suggest measures to increase use of micro irrigation.
- e) It is binding for CAC to take decisions as per the provisions in Maharashtra Irrigation Act 1976, MWRRA Act, MMISF Act 2005, and State Water Policy.

CAC schedule meeting before commencement of season. The concerned Chief Engineer and Superintending Engineer monitor regarding regular scheduling of such meeting on all projects. Agenda of the meeting is circulated 10 days prior, to all members and meeting are to be conducted preferably in the command of the project. Member Secretary is responsible for timely schedule of meeting. Minutes of the meeting with the approval of Chairperson are to be circulated within 7 days and decision of meeting are to be given wide publicity. Therefore, there is system in place about preparation irrigation program before the commencement of season. The Respondent No. 2 - 5 are duty bound to comply these provisions.

Order

44.0 Having heard the parties to the litigation, and after giving due consideration to the documents as well as data on record, submissions made by the parties and, this Authority, hereby orders as under:

- (a) Respondent No. 2 should ensure that the order of the PDRO dated 10/12/2019 is to be implemented.
- (b) The Respondent No. 3 is directed to prepare and implement irrigation rotation as per latest approved project report of Kukadi Project and in accordance with Section 12 (6) and 12 (7) of the MWRRA Act, 2005 and as per provisions laid down in said GR dated 18/03/2016.
- (c) Until Respondents No. 2 - 5 takes necessary action as per WRD's letter dated 28/06/2022, PDRO's Order dated 10/12/2019 should be implemented. After replanning of Kukadi Project, the saved water should be distributed equitably as per that approved project report of Kukadi Project. Further, necessary steps should be taken to avoid overlapping and multiple source benefits while replanning of the



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command. The State Government to take appropriate actions according to the proposal of Respondent No. 2 letter dated 06/04/2022 and steps as mentioned in the Para 37 of this Judgement.

- (d) Respondent No. 6 - Junnar Municipal Council and Respondent No. 7 - Shirur Municipal Council directed to implement their direct closed pipeline water supply schemes in a time-bound manner. As efficient water supply is essential, we direct Respondent No. 1 to intervene at the State level for speedy implementation of these schemes.
- (e) Respondents are directed to comply appropriately as per the observations of Para 39, 40 and 41 above.

The Petition is accordingly disposed of with no order as to the costs.

Delivered on July 26, 2023.

Sd/-

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

Sd/-

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

Sd/-

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

Sd/-

(Dr. Sanjay Chahande)
Chairperson



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

