



# 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)



MWRRRA/2022/Legal/Case No. 03 (2019)/339

Date : 05/06/2024

Case No. 3 of 2019

In The Matter of

An Appeal filed by Solapur Municipal Corporation against the Primary Dispute Resolution Officer's Order dated March 7, 2018 for directions to recalculate quantity of water drawn and various penal charges imposed

Please find enclosed herewith a copy of MWRRRA Order No. 04/2024 dated 16/04/2024 in the above matter.

Encl : As Above



*Narendra Tayade*  
(Narendra Tayade)  
Secretary, MWRRRA

Copy for information and necessary action to :-

1. Municipal Commissioner, Solapur Municipal Corporation, Indrabhuwan, Ambedkar Chowk, Railway Lines, Solapur - 413 001 (Appellant)
2. Executive Director, Maharashtra Krishna Valley Development Corporation, Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune - 411011 (Respondent No. 1)
3. Chief Engineer (SP), Water Resource Department, Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune-411011 (Respondent No. 2)
4. Superintending Engineer and Administrator, Command Area Development Authority, Opposite Solapur Club, Solapur - 413003. (Respondent No. 3)
5. Adv. Ramdas Hake Patil, 45, 1<sup>st</sup> Floor, Raja Bahadur Mansion, Tamarind Lane, M. P. Shetty Marg, Fort, Mumbai - 400001 (for Appellant)
6. Adv. Vilas Tapkir, Room No. 18, AAWI Court Building, Fort, Mumbai-400032 (for Respondent No. 1 to 3)



# महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

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Solapur Municipal Corporation,  
Through Municipal Commissioner,  
Indrabhuvan, Railway Lines,  
Solapur - 413001.

....Appellant

---Vs---

1. Executive Director,  
Maharashtra Krishna Valley Development Corporation,  
Sinchan Bhavan, Barane Road,  
Mangalwar Peth, Pune-411011
2. Chief Engineer (SP),  
Water Resource Department,  
Sinchan Bhavan, Barane Road,  
Mangalwar Peth, Pune-411011
3. Superintending Engineer and Administrator,  
Command Area Development Authority,  
Opposite Solapur Club, Solapur - 413003.

....Respondents



Adv. D. G. Dhanure / Adv. A. S. Rao / Adv. Ramdaas Hake Patil, Advocate for the Appellant

Adv. Vilas Tapkir, Advocate for the Respondents

Coram : Dr. Sanjay Chahande, Chairperson  
CA. Shwetali A. Thakare, Member (Economics)  
Adv. Dr. Sadhana S. Mahashabde, Member (Law)

Date : April 16, 2024

1. The Appellant is a Solapur Municipal Corporation (SMC), an urban local body which provides water supply to the citizens in the SMC area through various schemes. The water supply scheme from the Bhima River at Takli started from Year 1968. The water charges levied on this scheme were as per the actual quantity lifted at Takli and accordingly, bills were paid by the Appellant to Respondents based on domestic and industrial rates till December 2015. After the construction of the Ujjani Dam in 1980, additional water was been released to the Appellant from the Dam as per the rotation.
2. The SMC, vide its letter dated 19/12/2016, approached the Maharashtra Water Resources Regulatory Authority (MWRRA) against the bill dated 26/10/2016 raised by the Executive Engineer, Ujjani Dam Management Division, Bhimanagar for a period of November 2013 to October 2016 of Rs. 1.12 crores. The MWRRA, vide its letter dated 29/12/2016, informed the Appellant that the said dispute is first to be resolved at field level i.e. Superintending Engineer. If it is not resolved, then the orders on this should be obtained from the Chief Engineer and the Executive Director of the concerned Corporation. Even after this, if the dispute is not resolved, then an Appeal is to be filed before this Authority in the prescribed format. Meanwhile, Respondent No. 3, based on the Water Resources Department's (WRD), Government Resolution No. Sankirn-1003/ (310/03)/IM(P) dated 10/08/2004, raised the revised bill dated 20/08/2018 of Rs. 73.08 crore from December 2015 to November 2017 and directed to pay the bills, if unpaid the water supply will be stopped as per Section 49 of Maharashtra Irrigation Act, 1976.
3. The Appellant approached Respondent No. 3 against the said bill vide letters dated 28/11/2016 and 14/07/2017. The Appellant prayed to charge as per the actual quantity of water lifted and to waive off penal charges. The Appellant also submitted that as the water released from the dam is also



used by other local bodies/farmers, it is totally illegal to charge the Appellant for the whole water released. Respondent No. 3 conducted 3 hearings in the matter i.e., on 06/10/2017, 27/10/2017, and 30/11/2017, and communicated his comments to Respondent No. 2 vide letter dated 30/12/2017. Respondent No. 2 commented that as the Appellant has given a work order for the Sewage Treatment Plant (STP), penal charges are to be revised accordingly. Also, late charges are to be revised by considering Chincholi Industrial Complex water use. Regarding bill No. 100, the Appellant should pay the bill immediately. Regarding bills for Contingency Reservations for Solapur City, the action taken by the Executive Engineer is correct and the Appellant should pay the bills including arrears immediately. The Appellant should have constructed a storage tank of 4 months capacity or a direct closed pipeline from Ujjani Reservoir.

4. Being aggrieved by the decision of Respondent No. 3, the Appellant approached the Primary Dispute Resolution Officer (PDRO) and Respondent No. 2 by Application dated 25/01/2018. After conducting the hearing in the matter on 26/02/2018, Respondent No. 2, issued directives vide letter dated 07/03/2018. Respondent No. 2, directed that late charges and penal charges are levied as per prevailing Government Resolutions therefore the Appellant should pay immediately. The Appellant should have stored the required natural Bhima River water through a Storage Tank instead of demanding water through Contingency Reservation for period from December to July as per Government Resolution dated 10/08/2004. The Appellant demands water as per said Government Resolution but ignores other terms and conditions stated in the said Government Resolution and no proper actions are taken for recovery of water charges. As the water charges levied are as per the prevailing Government Resolution, the Appellant should pay water charges immediately.
5. The Appellant, being aggrieved by not considering legal issues raised by the Respondent No. 2, filed an Appeal before Respondent No. 1 on 23/03/2018 as informed by Respondent No. 2. However, Respondent No. 1, vide letter dated 21/08/2018 informed that as per Section 22 of MWRRRA Act 2005, Respondent No. 2 is empowered to decide the matter and no action is warranted from Respondent No. 1. Therefore, the Appellant should approach this Authority for further Action.

Accordingly, the Appellant filed an Appeal under Section 22 of MWRRRA Act, 2005 on 18/01/2019 before this Authority as the conclusions drawn by Respondent No. 2 and 3 are not based on the facts and rules. The Appellant



stated that the Appeal has been filed under the grounds of the principle of natural justice as the water charges were levied wrongly and fines imposed retrospectively. As per Condition No. 3 of the State Government's letter dated 06/11/1992 wherein it was stated that water charges were levied on total water use, the Respondents decision is totally wrong. The Appellant's city water supply scheme from Bhima River at Takli was sanctioned in the Year 1964 and completed in the Year 1968. The Appellant was paying water charges to the Respondent as per the actual quantity of water lifted. After the completion of the construction of the Ujjani Dam in Year 1980, water is being released from Ujjani Dam to the Appellant for drinking purpose which is then lifted at Takli by the Appellant. The said lifted water is charged as per domestic and industrial water use and is paid by the Appellant till November 2015.

7. The Appellant further stated that the Respondent then raised Bill No. 100 dated 21/01/2016 demanding Rs. 53,63,209/- as an arrears of previous bills. As the Appellant was paying the bills raised by the Respondent as per the actual quantity of water lifted, there are no arrears pending with the Appellant. But the Respondent in its decision stated that this is a not penal but regular levy charge which is completely inappropriate. Regarding STP, the Respondent has been directed to revise penal charges without considering the facts and situation of the Appellant. As a fact, a work order was given to a SMC-GECPL Company on 27/02/2012 for the construction of three STPs and laying sewage lines. However, due to delay by the said Company, the Appellant cancelled the work order and the said Company was blacklisted. However, the Respondent levied 50% penalty for not submitting action plan for construction of STP.
8. The Appellant further stated that the Appellant, during the period Year 2001 to 2014, paid water charges levied for Chincholi Maharashtra Industrial Development Corporation ((MIDC) Complex's water use as per agreement. However, the Respondent revised water charges to be levied from Year 2001 i.e. imposition of retrospective water charges. Even though the Appellant submitted draft agreement to the Respondent on 11/05/2015 but the Respondent levied penal charges to the Appellant for not entered into agreement. The water released from Ujjani Dam into Bhima River crosses 18 weirs before reaching Aauj weir. There are about 150 village water supply schemes and 2 major regional water supply schemes on this portion of Bhima River. Also, there are two weirs of Karnataka State viz. Govindpur and Umrani get filled by the said water released from Ujjani Dam and farmers on the riverbank lifts the water during the said releases.



But the water stored by these weirs is considered as Appellant's water use and charges levied accordingly which is wrong, ineligible and deserve to be cancelled.

9. The Appellant further submitted that there are three main sources from which city gets water supply. The first source among them is Ekrukha Tank through which city gets water supply of 27 Million Liters per Day (MLD) from the Year 1940. The second source is on Bhima River at Takli of 108 MLD started in the Year 1968. The third source is Ujjani Dam, which started in the Year 1998 and through direct pipeline city gets 80 MLD water supply. This third water supply scheme is jointly implemented by the Appellant and MIDC and out of which, 10 MLD is reserved for Chincholi MIDC. The Appellant is charging the Chincholi MIDC as per the water rates fixed in the agreement between them and as per their actual water use. Also, the Appellant through Smart City Scheme is laying parallel direct pipeline of 110 MLD from Ujjani Dam. Due to siltation in Ekrukha water supply scheme, measuring device stopped working even after continuous repairing. Though the Appellant is paying water charges as per actual water lifted, the Respondent is levying 25% penal charges as per Government Circular for not installing measuring device.
10. The Appellant further submitted that the Respondent's reliance on Government Resolution dated 10/08/2004 for levying penal charges to the Appellant is wrong. As per the said GR, during drought year when the local source of water supply is completely exhausted then water is to be released from nearby reservoirs to it. However, the State Government has not declared a drought year since Year 2015. Therefore, the Respondent's action of levying water charges based on the said Government Resolution is not correct. Further, the Appellant has already been permitted to release water from the reservoir into the river. The said Government Resolution is about the reconstitution of the District Level Committee for drinking water reservation and not for levying water charges for water released into the river.
11. The Appellant further submitted that the Appellant while paying the water charges paid additional 20% of bill amount as cess as per the agreement. However, as per the Government Resolution of 2001, it is binding on WRD to return the same to the Appellant. But the Respondent did not do it and adjusted it with the arrears without Appellant's prior consent. This is totally wrong and necessary directions to be given to return it with interest. The Respondent worked out total dues of Rs. 82.77 crores and if these dues are



not cancelled, then public service provider agency like the Appellant will face severe financial crisis. As per actual water lifted from November 2015 to August 2018, the amount payable by the Appellant was Rs. 7.50 crores but the Appellant paid Rs. 18.83 crore including cess for same period. Thus, Rs. 11.33 crore of the Appellant is balance with the Respondent. If the Appellant has to pay the dues as per the Respondent's demands, then the Appellant must collect twice the water charges from its citizens, which is not at all possible.

12. The Appellant further submitted that Respondent No. 2's decision dated 07/03/2018 and Respondent No. 3's decision dated 30/12/2017 are not in line with the provisions of law, MWRRA Act 2005 and directions issued by the State Government from time to time. Thus, the Appellant approached this Authority under Section 22(3) of the MWRRA Act, 2005 against the Order of Respondent No. 2 and PDRO dated 07/03/2018. The Appellant also filed separate Application for condonation of delay. The Appellant stated that the Appellant, against the Order of the PDRO, approached the Respondent No. 1, which has directed to approach this Authority vide its Order dated 21/08/2018. Then, time required for discussion with its panel of Advocates, drafting Appeal, scrutiny of documents, getting it approved and appointment of legal consultant. Therefore, the Appellant prayed for acceptance of an application for condonation of delay of 87 days.

13. Considering the facts and the grounds stated herein above, the Appellant prayed for the following reliefs in their Appeal;

क) सामनेवाला नं. २ व ३ यांच्यासमोर झालेल्या सुनावणी प्रकरणाचे संपूर्ण दस्तावेज मे. न्यायालयात सादर करण्यास योग्य ते आदेश व्हावे.

ख) अपिलार्थी यांचे प्रस्तुतचे अपिल मंजूर करण्यात यावे.

ग) सामनेवाला नं. ३ यांचे दि. ३०.१२.२०१७ रोजीचा निर्णय व तसेच सामनेवाला नं. २, यांचे दि. ०७.०३.२०१८ रोजीचा निर्णय रद्द करण्यात यावा.

घ) अपिलार्थी यांना सामनेवाला यांनी आकारणी केलेली पाणीपट्टी रद्द करण्यात यावी आणि अपिलार्थी यांनी प्रत्यक्ष उपसा/वापर केलेल्या पाण्यापोटी आकारणी होऊन पाणीपट्टीची सुधारित देयके देणेबाबत / आकारणी करण्याबाबत सामनेवाला यांना योग्य ते आदेश करण्यात यावा.

ड) अपिलावर अंतिम सुनावणी होईपर्यंत सामनेवाला यांना सोलापूर शहर पाणी पुरवठ्यासाठी उजनी धरणातून भीमा नदीत निक्षिप्त केलेल्या आवर्तनाप्रमाणे पाणी सोडण्यास योग्य ते आदेश द्यावेत व तसेच शहर पाणी पुरवठ्यासाठी उजनी धरण



उद्भवतून थेट पाईपलाईन योजनेद्वारे निरंतर पाणी पुरवठा सुरु ठेवणेसाठी योग्य ते आदेश द्यावेत.

- च) अपिलावर अंतिम सुनावणी होईपर्यंत सामनेवाले यांचे प्रतिनिधी उप कार्यकारी अभियंता, भीमा विकास विभाग क्र. २, सोलापूर यांना त्यांचे दिनांक २६.१२.२०१८ (जा.क्र. भावि-२/सिंचन/४७६०/सन २०१८) रोजीच्या पत्राप्रमाणे अपिलार्थी संस्थेचा पाणीपुरवठा खंडीत करू नये व सदर पत्रामध्ये उल्लेख केलेले कुठल्याही कार्यवाही करू नये यासाठी योग्य ते आदेश द्यावेत.
- छ) अपिलार्थी यांनी उजनी पाणीपुरवठा व भिमा पाणीपुरवठा योजनेचा देयकासोबत सामनेवाला यांचेकडून समायोजित केलेली २० टक्के सेसची रक्कम सामनेवाला यांचेकडून अपिलार्थी यांना परत देणेबाबत आदेश करण्यात यावा.
- ज) सदर अपिलाचा खर्च प्रतिवादी यांचेकडून वसूल होणे कामी योग्य ते आदेश द्यावेत.
- झ) इतर योग्य ते न्यायाचे हुकूम अपिलार्थी यांचे बाजूने व्हावे.

14. After filing the Appeal before this Authority on 18/01/2019, the Authority conducted the first hearing in the matter on 12/03/2019. During the hearing, Respondent No. 3 submitted the reply and stated that water charges paid by the Appellant depending upon their water use and as per actual quantity pumped from Aauj and Chinchpur Kolhapur Type (KT) weirs till December 2015. As per Government Resolution dated 10/08/2004 and 29/06/2011, water is released in Bhima River for Solapur city as per decision taken in the meeting headed by the Guardian Minister and same got sanctioned in the Canal Advisory Committee meeting. The losses to be applied for each KT weirs are decided by considering their distances and storages and accordingly bills are prepared. Two KT weirs, on upstream of Aauj KT weirs, are owned by the Karnataka Government and these weirs get filled first from the water released then it reaches to Aauj KT weir. Therefore, water stored in these weirs considered for billing to the Appellant with losses. The Appellant paid these bills in the Year 2016 without protest. Not all water released from Ujjani Dam is considered for billing to the Appellant but the water used by other Municipalities and Grampanchayats are also considered. During the releases, water used by farmers is taken on record and charges are levied with penalty.



15. The Respondent No. 3 further submitted that as per Para 3 of Government Resolution dated 10/08/2004, the said Government Resolution is applicable to every year and Para 2 of said Government Resolution prescribes the norms for water requirement during drought year and normal year. The



Para 2.1 also states that water should be reserved in the dam and it should be lifted from reservoir only through pipeline or tankers. Water should not be released unless there is provision of releasing water in river from dam. In the present matter, there is no provision of releasing water into Bhima River from Ujjani Dam for the Appellant. Therefore, the water losses occurred due to water release demands of the Appellant should be accepted by the Appellant. Despite frequent demands from this Respondent, the Appellant has not paid any water charges from November 2016.

16. The Respondent No. 3 further submitted that water charges are levied considering the losses as per Government Resolution dated 10/08/2004 and 29/06/2011. Accordingly, water losses occurred for water releases to the Appellant are considered for billing. State Government's letter dated 06/11/1992 is regarding water quota sanctioned from Ujjani Dam through pipeline and not applicable for lifting water from Aauj and Chinchpur KT weirs. The Appellant's present average lifting at Aauj weir is 85 MLD against sanctioned 20.08 Million Cubic Meter (MCM) i.e., 55 MLD. As per Bulk Water Tariff (BWT) order dated 29/06/2011 and 01/12/2018, it is clearly stated that quantum of reserve water required as per norms should be worked out including conveyance and evaporation losses. The balance due shown in Bill No. 100 is correct. Regarding STP, it is the Appellant's internal matter that STP's work hampered but, the Respondent levied penal charges as per prevailing rules. As MIDC Chincholi using more water than reported by the Appellant, the revised bills for 2001-14 were issued.
17. The Respondent No. 3 further submitted that the Respondent is compelled to release the water in the Bhima River as per the Appellant's demand. Regarding bills for Ekrukh Tank, penal charges are levied as per Government Resolution dated 07/04/2003 for non-working meter. As the water supply sources at Aauj and Chinchpur KT weirs dry up, the Appellant demands release of water and accordingly water is released frequently. As there is pending dues with the Appellant is accumulated to more than of Rs. 50 crore and the Appellant is reluctant to pay, the local cess money payable to the Appellant is adjusted against the pending dues which is correct and lawful according to natural justice. The bills issued prior to November 2015 will be corrected as per the above said Government Resolutions and will be issued to the Appellant. As the Appellant has not approached this Authority within stipulated time and taking so much time to file an appeal, the Appellant's request for delay condonation may straightway rejected. Therefore, the Respondent prays that PDRO's order



may be confirmed and the Appellant may instruct to pay balance dues with interest .

18. During the hearing held on 12/03/2019, the Authority is of prima facie view that the issue was kept lingering and the Appellant approached belatedly without explaining delay caused in filing the appeal. The Authority pointed out that the Appeal is not maintainable as the Appellant has not bothered to execute the Agreement and is also defaulted in the payment of dues, at least undisputed dues to the WRD. It is also made clear that the Appellant prima facie failed to convince on the point of grant of stay to the Order in Original passed by the Respondents as well as PDRO. The Authority also pointed out that, as there is no stay on the Orders below, the Superintending Engineer and Administrator, CADA, WRD, Solapur who is empowered to take action as per the Maharashtra Irrigation Act, 1976 for recovery of the dues, seems to have failed to perform their duties and the obligations on the pretext of the present litigation, at least to the extent of recovery of the undisputed dues which ought to have been recovered so far and the necessary steps should have been taken for the reconciliation and the settlement of the outstanding dues which now amounted to huge recovery to the tune of Rs. 107 crores and the arrears as well as the penal charges including interest is mounting day by day only due to the casual approach of the parties who seems least bothered for recovery which ultimately effecting the sustainability as to the maintenance of the Irrigation Project.
19. The Authority, after taking into consideration, the arguments of all the parties and the inputs received during the hearing, directed that as there is no stay on the PDRO's Order dated 07/03/2018, the Respondents are to take appropriate steps for the recovery of the dues, at least to the extent of undisputed dues as well as steps for the reconciliation and the settlement of the disputed dues. The Authority also directed Appellant to take appropriate steps for compliance thereof in consultation with the WRD within a period of 10 days from the date of this proceedings, failing which the present appeal shall be dealt with according to the provisions of the law for want of the Agreement as well as the payment of the dues to the extent of undisputed amount. The Authority also directed the Appellant to file Rejoinder Affidavit on the Reply and the say submitted by the Respondents during the hearing dated 12/03/2019. The Authority also stated that it is of considered opinion that the present appeal will only be heard on merit, once the Application for condonation of delay as preferred by the Appellant



is heard and decided finally, if this Authority is satisfied on the Bonafide reasons for delay in preferring the present Appeal

20. Pursuant to the directions given in the hearing, the Appellant filed Rejoinder Affidavit dated 18/03/2019. The Appellant submitted that the reply filed by Respondent No. 3 dated 12/03/2019 is not in accordance with MWRRA (Conduct of Business) Regulation, 2013 and therefore, it cannot be considered and liable to be rejected. The Respondent did not raise any objections on the payments made by the Appellant prior to November 2015 for actual water use. Hence, the Appellant is not liable to pay illegal demands made by the Respondent. State Government has not sanctioned water quota to the Appellant and no water reservation or bulk water entitlement from Ujjani reservoir for the Appellant has been fixed by the State Government. As no year declared as drought year, the provisions of Government Resolution dated 10/08/2004 are not applicable in the present case. As per Agreement dated 29/12/2014, the Appellant is lifting water from Bhima River at Takli. The Bhima Water Supply Scheme commenced in the Year 1968 and Ujjani Dam was constructed in the Year 1980. Due to construction of Ujjani Dam, natural water source which is available for the Appellant got stopped and hence the demand arose for water by the Appellant to the Respondent.
21. The Appellant further submitted that the entire water released from Ujjani Dam into Bhima River is not only used by the Appellant but also by other local bodies, agriculturists, sugar factories and other industries. This was also agreed by the Respondent and only 1.03 Thousand Million Cubic feet (TMC) water reaches/used by the Appellant from said releases of 20.00 TMC. The said disputed 15 water bills are issued contrary to the terms and conditions of the Agreement dated 29/12/2014. Bills does not mention actual quantity, therefore the bills for exorbitant amount are not acceptable. The Appellant denies that water released into Bhima River from November 2015 as per Government Resolution dated 10/08/2004 and 29/06/2011. There are many agriculturists illegally lifting water which is released from Ujjani Dam and no action taken by the Respondent. As the water stored in two KT weirs of Karnataka State are used by the people of Karnataka and Maharashtra State, the Appellant cannot be held liable for such use and said losses of these KT weirs. As per Agreement dated 29/12/2014 against sanctioned quota of 55 MLD, the Appellant is presently lifting 80 MLD water. The penal charges against no Agreement are not acceptable. Yashwant Jalasay Scheme (Ujjani Direct Pipeline Scheme) has sanctioned quota of water of 25.55 MCM by the State Government on 06/11/1992 and



the said scheme commenced in the Year 1998. The Appellant and the MIDC entered an Agreement on 15/03/2000 for supplying 10 MLD water. As per the Agreement, the Appellant is charging MIDC below the rate than the residential rate. Regarding parallel pipeline scheme, bidder is finalised and work order is likely to be issued at the earliest.

22. The Appellant further submitted that the water supply from Ekrukha Tank is not in operation due to non-availability of water. The Appellant denies pending dues against Ekrukha Tank since the charges are to be levied as per actual use. The Appellant is in process of executing new agreement with the Respondent in respect of Ekrukha Tank. Though the Collector, Solapur vide letter dated 06/02/2016 informed the Appellant to pay the arrears in respect of release of water from Ujjani Dam into Bhima River, the Appellant is not legally liable to pay the arrears. Regarding adjustment of local cess with pending dues, the Appellant was not given opportunity of hearing nor any show cause notice issued before doing such adjustment. The Appellant Corporation is not liable to pay the balance amount to the Respondent. If the Appellant's actual water use considered, then the Appellant has paid excess amount to the Respondent. Therefore, bills raised by the Respondent are illegal and not accepted by the Appellant. As per Government Resolution dated 10/08/2004 and 29/06/2011 and no objection taken on payments by the Appellant, the Respondent cannot be allowed to reissue and correct the bills issued before November 2015. The delay in filing the Appeal is not deliberate and/or intentional and same is occurred due to reasons mentioned in the delay condonation application. Therefore, the said application to be allowed in the interest of justice and the orders of Respondent No. 2 and 3 including bills are required to be quashed and set aside.

23. The 2<sup>nd</sup> hearing in the matter was conducted on 26/03/2019. After hearing arguments by both parties, the Authority issued following Interim Order;

- i) *As prayed by the Appellant, the delay in filing the Appeal is condoned.*
- ii) *Prima facie it appears that, the SMC has already paid more than the actual dues as per the Agreement dated 29/12/2014. However, this Authority's Member (Economics), Secretary and the Deputy Director (Shri. Gokhale) should jointly examine the rules / orders and demands raised by calling both the parties and also arrive at actual dues till today within three weeks.*
- iii) *If SMC has paid less than actual dues, they should pay it immediately and if SMC has overpaid than actual dues, the same will be adjusted against future dues from SMC.*



- iv) The WRD and SMC has not signed and renewed the Agreement with WRD for lifting of water from two sources i.e. water pipeline from Ujjani dam and Ekrukh Medium Project. The WRD should sign a fresh agreement with SMC in three weeks, till then SMC should be charged as per this Authority's Tariff Order.
- v) This Authority's Member (Economics) to study, assess and suggest a formula for notional conveyance loss to be apportioned to SMC at least for this specific case. Also, suggest suitable formula to the State Government for apportionment of losses in such cases to the user entity. The entire burden of losses cannot be thrust upon the user entity for losses due to various reasons enroute.

24. Accordingly, the Member (Economics) and Deputy Director (Shri. Gokhale) had a meeting with the concerned officials of both the parties at Solapur, visited the various project sites and perused documents during 3 - 5 April 2019. The Report prepared by them was discussed with the Authority's Chairman and other Members wherein it was directed to schedule a meeting on 23/08/2019 with the concerned officials of both the parties to discuss the matter. During the meeting, it was decided to constitute a Committee headed by the Member (Water Resources Engineering), MWRRA to decide whether water losses considered by the WRD for levying water charges to the Appellant. Accordingly, the Authority vide it's Order dated 26/09/2019 constituted the Committee and the scope of the Committee is as follows;

१. लाभक्षेत्र विकास प्राधिकरण, सोलापूर हे सोलापूर महानगरपालिका, सोलापूर यांना पाणीपट्टीची आकारणी करतांना गृहित धरत असलेले पाण्याचे परिमाण व त्यावरील वहनव्ययाचे परिमाण हे योग्य आहे किंवा कसे याची तपासणी करणे; करारनाम्यातील अटी व शर्ती तपासून योग्य निर्णय घेणे;
२. कर्नाटक राज्याच्या मालकीचे दोन बंधान्यासंदर्भात दोन्ही राज्यातील करारनामा व त्यामधील अटी व शर्ती तपासणे व योग्य त्या सूचना देणे;
३. उजनी जलाशयातून भिमा नदीत सोडण्यात येणाऱ्या पाण्याचा बिगरसिंचनासाठी वापर करित असलेल्या सर्व स्वराज्य संस्था यांना पाणीपट्टीची आकारणी करतांना गृहित धरलेले पाण्याचे परिमाण व त्यावरील वहनव्यय योग्य आहेत काय? याची तपासणी करणे व योग्य त्या सूचना करणे;

उजनी जलाशय ते औंज बंधारा यामध्ये होणाऱ्या वहन व्ययाचा अभ्यास करून सोलापूर महानगरपालिका, सोलापूर यांचेवर किती वहन व्ययाची आकारणी करता येईल हे तपासणे व योग्य त्या सूचना करणे;



५. समितीस आवश्यक वाटल्यास क्षेत्रीय दौरा करुन जलसंपदा विभाग व महानगरपालिका, सोलापूर यांचे प्रतिनिधी सोबत क्षेत्रीय कामाची पाहणी करेल.

25. The Committee conducted the meeting on 11/10/2019 and prepared its Report. The Committee concluded that it is not appropriate to consider water storage and conveyance losses of four weirs while working out quantum of water. As the Appellant is lifting water from Aauj and Chinchpur KT weirs, the water storage and conveyance losses of these two weirs should be considered for calculating quantum of water. This should also include proportionate evaporation losses of reservation. The water charges should be levied as per the prevailing Authority's Order for rates including losses. There is no Inter-State Agreement available for two weirs of Karnataka State and also the water storage and conveyance losses of these two weirs should not be considered. As the present matter is about bills of SMC, calculation of conveyance losses for other local bodies does not come under the present matter. As the Member Secretary of the Committee visited the field site and field officers submitted requisite documents, maps etc., there is no need of another field visit by the Committee. Also, the Respondent should submit SMC's water budget considering increased population. The said Committee Report prepared for perusal of the Authority and the conclusions given therein will be helpful for deciding the present matter.
26. However, due to Covid-19 Pandemic and end of tenure of Chairperson and Member (WRE), hearings were not conducted. The 3<sup>rd</sup> hearing in the matter was conducted on 05/01/2021 by Video Conferencing. After listening to the arguments by both parties, the Authority directed that Report under the Chairmanship of Member (WRE) of this Authority should be circulated to all parties in the present matter and both parties should file their Affidavit on the action taken by them on Authority's directions given earlier and on the above said Report.
27. Accordingly, the Appellant vide letter dated 21/05/2021 filed its say on the said Member (WRE) Report and stated that the Appellant informed the Respondent for reserving water in Ujjani reservoir for Bhima water supply scheme as Contingency reservation. The Appellant is paying water charges to the Respondent as per actual quantity of water lifted from Bhima River and as per prevailing rates of this Authority. The Appellant agrees with the Committee's conclusion about not considering water storage and conveyance losses of two KT weirs of the Karnataka State. However, conveyance losses should be worked out considering water use by other



local bodies, agriculturists and industries of both States. The Appellant should be billed as per actual lift i.e. as done prior October 2015.

28. However, both parties have not filed the Affidavits as per the directions given in the previous hearing in time. The Respondent No. 2 filed an Affidavit dated 17/02/2022 and submitted that at present water quantity for billing includes storage plus transit loss related to storage quantity but evaporation losses not considered. The Respondent is compelled to release water for the Appellant from Ujjani Dam which reaches Aauj and Chinchpur KT weirs after filling of two KT Weirs of the Karnataka State. Therefore, quantity of water stored in Aauj, Chinchpur and two KT Weirs of the Karnataka State and corresponding losses should be considered for billing. The Appellant should be directed to provide the bifurcation of water used for commercial and domestic purpose so that bills can be prepared accordingly and there will be no dispute in future.
29. The 4<sup>th</sup> hearing in the matter was conducted 25/02/2022 by Video Conferencing. During the hearing, the Authority expressed its displeasure that the Appellant, even after 6 years, had not complied the direction of this Authority about pipeline from Ujjani Dam to substitute water supply to Aauj weir in Case No. 05/2015 dated 26/10/2015. The Appellant and the Respondents should conduct a meeting within a week to decide the undisputed amount and the Appellant should file an Affidavit.
30. As per the directions of this Authority, the Appellant has filed an Affidavit dated 08/06/2022 and stated that the meeting was conducted on 26/03/2022 to determine the dues. Accordingly, statements were prepared excluding bifurcation as directed by this Authority. Regarding laying additional pipeline, work of 19 Km is completed and balance 91 Km is at tender stage. The Appellant has prepared the statement of undisputed water charges based upon water lifted from the source and also submitted the annual budget for FY 2022-23. Details of STPs are submitted and one more STP of 20 MLD capacity is proposed under Amrut scheme. The water audit for current year is under progress.
31. The Appellant, vide letter dated 08/06/2022 submitted its say of the above-mentioned Report of the Committee which is nothing but reproduction of its earlier say submitted vide its letter dated 21/05/2021.

The Respondents, vide its Application dated 16/06/2022, submitted that the appeal is about assessment of water charges. The dispute related to cancellation of water charges bill, assessment of water charges, correctness



of the bill of water charges issued to the Appellant does not come within the functions of the Section 11 of the MWRRRA Act, 2005. Therefore, the Appeal is not maintainable and may kindly be dismissed.

33. The Authority conducted 5<sup>th</sup> hearing in the matter on 26/08/2022. The Authority observed that the Primary Dispute Resolution Officer (PDRO) and Chief Engineer (Special Project) has not passed a speaking order. The order by the PDRO is in the form of minutes of the hearing. The Authority directed the Appellant and Respondent No. 3 should conduct a meeting within 10 days to decide the undisputed amount from 2001 onwards based upon recommendations of the Committee under Chairmanship of Member (WRE), MWRRRA. The Authority also directed the Appellant and the Respondent to file an Affidavit on certain points/issues.
34. The next hearing in the matter was scheduled on 12/10/2022 which was adjourned six times as per the request of the Appellant and the Respondents. The 6<sup>th</sup> hearing in the matter was conducted on 26/04/2023 and the Authority stated that both the parties have not agreed upon the undisputed amount. The Authority directed the Appellant to file an Affidavit about undisputed water charges and directed the Respondent to file written arguments.
35. Accordingly, the Appellant filed an additional affidavit dated 07/08/2023 and submitted that a meeting was scheduled with Respondent No. 3 on 10/03/2023 to decide undisputed amount. Accordingly, the Appellant prepared statement from November 2015 to February 2023 for actual lifting of water for Bhima River Scheme and balance Rs. 8.15 crore remained to be paid but, the Respondent vide letter dated 15/03/2023 informed that outstanding balance is Rs. 65.63 crore. The Appellant submitted that they are ready to assess the losses on actual lifting of water from the source during contingency period. As per Water Audit Report submitted by WAPCOS the water usage comes to 2 ML/day to the MIDC for industrial usage. Regarding dues of Ujjani Direct pipeline, the Appellant disputed the Rs. 2.78 crore outstanding amount worked out by the Respondent as the payment from January - November 2001 were not considered.
36. The 7<sup>th</sup> and final hearing conducted on 14/09/2023 and after hearing both the parties, the Authority directed the Appellant to make written submissions of existing status of pipelines. The Authority also directed the Respondent to file an Affidavit based on the data available in accordance to the directions given by this Authority during hearing dated 26/08/2022.





The Authority also stated that the case to be closed for the judgement on receipt of submissions made by both parties.

37. As per the Authority's direction, the Respondent No. 3 filed an affidavit dated 09/10/2023 and submitted that the detailed data from the Year 2007 is available instead of the Year 2001. The Respondent collected details of all users between Ujjani Dam and Takli weir and prepared a chart in respect of number of users, quota sanctioned and proportionate losses. The Respondent is charging proportionate charges against the Appellant only between Aauj and Chinchpur. The Respondent prepared a chart in respect of undisputed amount from the Year 2007. As per Government Resolution dated 02/02/1988, 25/01/2003 and 10/12/2003, the Respondent imposed levy and assessment of water charges with retrospective effect. The Appellant, vide letter dated 13/10/2023, submitted the details and status of the parallel pipeline from Ujjani Dam.
38. This Authority referred relevant legal provisions contained in the various Government Resolutions of Government of Maharashtra Agreements, letters of WRD and SMC and Orders of this Authority. The extract of the same is reproduced below for reference;

**A. GR dated 10/08/2004 Sankirn-1003/(310/03)/IM(P)**

The WRD's Government Resolution No. stated that the following points should be considered for reserving drinking water in reservoirs where water needs to be drawn from reservoirs near villages/towns where the local water source is completely exhausted during drought period.

Para 2.1 of GR dated 10/08/2004 says

*the quantity of water required till 15<sup>th</sup> July for the said population by considering 40 Liters per capita per day should be calculated and the said quantity should also add evaporation / transmission loss, livestock water requirement and 10% extra (for unaccounted water use). Water reservations should not be made on an ad-hoc basis of estimated quantity. The water supply from local wells and ponds should also be considered for calculating the drinking water requirement for the said population. Other than the projects where there is a provision in project's water planning to release water from the reservoir into the river, in all other projects water should be reserved in the reservoir as per above and taken directly from the reservoir through pipeline or tanker. Drinking water should not be released from the reservoir into the river without prior planning.*



**B. Water Supply Agreement dated 29/12/2014 between Appellant and Respondents**

Water Supply Agreement signed between Appellant (referred as Company) and Respondents Executive Engineer, Bhima Development Division No. II, Solapur on behalf of the Respondents has following important provisions;

- i. Para 2 of Water Supply Agreement dated 29/12/2014 says  
*Whereas the company is desirous of constructing a pumping station on the company's land at Takli for drawing water from the source Bhima River. (hereinafter referred as the said plant) and laying underground and surface pipes and drains for discharge of the factory effluent.*
- ii. Para 3 of Water Supply Agreement dated 29/12/2014 says  
*AND Whereas the company has applied to the Government for permission to draw 20080 Million liters of water per day/year from the said source.*
- iii. Part of para 7 (3) of Water Supply Agreement dated 29/12/2014 says  
*Nothing herein contained shall be deemed to imply any guarantee on the part of the Government as to the availability or otherwise of any specific quantity of water and Government shall not be responsible for the non-supply of inadequate supply of water on any account whatsoever'.*  
*However, in case of inadequate or non-supply due to shortage of water or reason beyond the control of the Department, bill shall be charged as per actual quantity of water lifted during such period.*
- iv. Part of para 7 (7) of Water Supply Agreement dated 29/12/2014 says  
*The company shall not construct the pick-up weir in the Bhima river bed of the said river unless the proposals, plan, drawings, specifications estimates and all other details thereof are previously submitted to and approved in writing by an officer authorised in that behalf by the Government and while granting its approval to the construction of the pick-up weir Government may impose such conditions as it may in its discretion think fit.*
- v. Part of para 8 (a) of Water Supply Agreement dated 29/12/2014 says  
*For ascertaining the quantity of water drawn by the company, the company shall forthwith at its own cost and after obtaining prior approval in writing thereof the Executive Engineer install independent pipelines fitted with separate electronic water measuring devices for use of water for the said independent intention (hereinafter referred to as the said electronic measuring devices) at such places as indicated by the Executive Engineer. All the pipeline showing locations of the metering equipments from the said source for different purposes shall be got jointly verified and got approved from Executive Engineer,*



Irrigation Department. Layout from the said source shall be got approved from the Executive Engineer. No changes in the approved layout shall be made without the prior written approval from the Executive Engineer. In the event of the company failing to install and keep in proper working order the said electronic measuring devices for use of water for the said plant and supply to the said residential colonies as aforesaid the company shall be liable to pay for the full sanctioned water quota as mentioned in clause 8(d) I and II. During such period 125% of the proportionate sanctioned quantity will be charged at the prevailing rates for the plant. The said electronic measuring devices shall always be kept under the lock and seal of the Executive Engineer and the key of such lock shall at all times remain with the Executive Engineer. The company shall at all times during the substance of this agreement at its own cost maintain the said electronic measuring devices in proper working order and condition. (The underline portion not applicable to MIDC)

- vi. Part of para 8 (b) of Water Supply Agreement dated 29/12/2014 says  
Reading for the water so drawn by the company will be taken on the said electronic measuring devices on the 1st day of each month/at agreed times, jointly by the authorised representatives of the Executive Engineer and of the company.
- vii. Part of para 8 (c) of Water Supply Agreement dated 29/12/2014 says  
If at all in the opinion of the Executive Engineer the said electronic devices are found defective the same shall be tested for its accuracy and the cost of such testing shall be borne and paid by the company. If on such testing the said electronic measuring devices are found to be defective the company shall forthwith get the same repair and set right at its own cost and in the event of company failing to do so within 30 (thirty) days thereafter the Executive Engineer may proceed to do so on account and at the cost of company.
- viii. Part of para 11 of Water Supply Agreement dated 29/12/2014 says  
Subject to the provisions of clause (8) hereof, the company shall pay to the Government at the time and in the manner specified in clauses (12) hereof water charges for the quantity of water drawn by the company from the said river as measured by the said electronic measuring devices at the following rates.

Purpose of water use	Sanctioned Quota	Present rate Per 10,000 lit.
Domestic use	18.80 Mm <sup>3</sup> /year	Rs. 5.04
Industrial use	1.28 Mm <sup>3</sup> /year	Rs. 76.80
Agricultural use	--	As per Government rates



*(The rates quoted above are subject to its revision from time to time by the Govt.)*

*The water lifted by the USER during rainy season from the river where Irrigation Department has not released the water, concessional rate as decided by Irrigation Department shall be charged.*

ix. Para 15 of Water Supply Agreement s dated 29/12/2014 ays

*The effluent disposal arrangement made by the company/industry shall be got approved by the company from the Maharashtra Pollution Control Board / Environmental Department of the Government prior to commencing the operation of pumping / drawing water from the source. (Underline Portion not applicable to MIDC).*

x. Para 19 of Water Supply Agreement dated 29/12/2014 says

*All amounts due to the Government by the company under this agreement shall be deemed to be arrears of land revenue and may without prejudice to any other rights and remedies of the Government be recovered from the company as arrears of land revenue.*

xi. Para 23 of Water Supply Agreement dated 29/12/2014 says

*The agreement supersedes all the previous agreements (except certain cases where MIDC has paid the Capital Contribution and entered into an agreement) entered into by the USER with the Government in connection with the supply of water from Bhima River at Takali.*

xii. Para 24 of Water Supply Agreement dated 29/12/2014 says

*The company will have to make an arrangement at it's own cost for adequate storage (Balancing Tank) of not less than two months requirement of water in case of perennial canal, five months requirement in case of 8 monthly canal system, four months requirement in case of water source from seasonal river / nalla and one months water requirement in case of perennial water source of river / nalla so as to take care of the closure period. But if unexpectedly the closure period is increased by more than the specified period stipulated herein the company will have to make an alternative arrangement for its water requirement at its own cost. (Not applicable to MIDC).*

**C. The important provisions in MWRRRA's Bulk Water Tariff (BWT) Order dated 30/05/2011 are as follows.**

Para 4.1.1 of BWT Order dated 30/05/2011

*The volumetric basic rates, depending on the source of supply, for bulk water users of the two subcategories of industrial users viz. industries using water as*



raw material (e.g. beverages) and industries using water for process (cooling, washing etc.) is determined as under.

(Rs./10m<sup>3</sup>)

Sl. No.	Source of Supply	Process Industries	Industries using water as raw material
1.	<b>Assured Water Supply</b> Major/Medium reservoir/storage tank without canal	32	160
2.	<b>Regulated Water Supply with Transmission Loss</b> Regulated river portion below dam/canal lift / K.T. weir with back up reservoir / tail race from reservoir	64	320
3.	<b>Partly Assured Water Supply</b> Minor reservoir with canal / K.T. weir without back up reservoir / unregulated rivers without even any K.T. weir or in unregulated river portion flowing within a command area where there is no bandhara or K.T. weir	16	80
4.	<b>Reservoir Constructed by the Water User Entity / User Entity Shared Proportional cost</b> Water user agency (Gram Panchayats, ULBs, Municipal Corporations and other such utilities) has shared proportional cost of infrastructure or constructed dam/ bandhara/ katcha bandhara /K.T. weir at own cost	10.7	53.5

Note below the above table says

- the above basic rates will be applicable in the season between Nov. to February except in Konkan and Vidarbha where it will be between 15th November and 31st March. The corresponding rates in the season between July to October, except in Konkan and Vidarbha where it will extend to 15th Nov., will be 50% of the basic rate and in the season between 1st March to 30th June, except in Konkan and Vidarbha where it will be from 1st April to 30th June, the rates will be 150% of the basic rate.

domestic component of industrial use will be charged at appropriate domestic rate as given in para 4.2 below

Para 4.1.3 of the BWT Order dated 30/05/2011 says



Penalty every industry is expected to treat its effluent to prescribed standards before release into natural water course. If effluent is not treated to the required MPCB standard, rate equal to twice the applicable rate will be charged. This will be in addition to any other action MPCB may separately take.

Para 4.2.1 of the BWT Order dated 30/05/2011 says

The volumetric basic rates for bulk water, depending on source of supply to the three subcategories of domestic users viz. Gram Panchayats (GP), Urban Local Bodies (ULB) and Municipalities/Municipal Corporations is determined as under (transmission losses are borne by users):

(Rs./10m<sup>3</sup>)

Sl. No.	Source of Supply	GPs	ULBs	Municipalities/ Corporations
1.	<b>Assured Water Supply</b> Major/Medium reservoir/ storage tank without canal	1.32	1.58	2.10
2.	<b>Regulated Water Supply with Transmission Loss</b> Regulated river portion below dam/canal lift / K.T. weir with back up reservoir / tail race from reservoir	2.64	3.15	4.20
3.	<b>Partly Assured Water Supply</b> Minor reservoir with canal / K.T. weir without back up reservoir/ unregulated rivers without even any K.T. weir or in unregulated river portion flowing within a command area where there is no bandhara or K.T. weir	0.67	0.79	1.05
4.	<b>Reservoir Constructed by the Water User Entity / User Entity Shared</b> Proportional cost Water user agency (Gram Panchayats, ULBs, Municipal Corporations and other such utilities) has shared proportional cost of infrastructure or constructed dam / bandhara/ katcha bandhara /K.T. weir at own cost	0.44	0.53	0.70

Note :

- Basic rate will remain the same in all the three seasons
- Industrial use component (including commercial use) of domestic use will be separately identified as per the agreement and charged at appropriate industrial rate.

Para 4.2.2 Concessions / incentives of BWT Order dated 30/05/2011



*If Metro Corporation / Municipality / Utility / any domestic bulk user treats sewage effluent to required standards as prescribed and certified by MPCB, enabling use of such treated effluent for irrigation / gardening, the tariff for the quantum of bulk water used to produce such treated effluent will be 75% of the applicable tariff.*

**Para 4.2.3. Penalties of BWT Order dated 30/05/2011**

- *Full levy will be charged for reservation made in reservoirs in drought period for drinking water use including evaporation and transmission use, irrespective of actual drawal.*
- *Municipal Corporations / Municipalities shall within two years from the date of issue of this tariff order prepare and submit to the MPCB and the Authority an implementation programme for setting up new / additional STPs of required capacity to treat the sewage effluent to the required standards failing which one and half times applicable rate will be charged thereafter.*

**Para 6.0. General for all three categories of users of BWT Order dated 30/05/2011**

- *For delayed payments beyond permissible time limit, penal rate at 1% of the billed amount will be levied for delay of each month or part thereof.*
- *All rates are excluding local cess which will be charged as determined by the State government from time to time.*

**Para 13.4 General (for all categories) of BWT Order dated 30/05/2011**

- *Penal rate at 1% per month or 12% per year will be levied for delayed payments beyond permissible limit.*
- *All future agreements for non-irrigation use will include justification for demand with norms (lpcd for drinking water depending on urban/rural use and m<sup>3</sup>/unit production depending on type of industry)*
- *Any withdrawal for non-irrigation use beyond + 10% of prescribed quantity in the agreement will be charged penal rate of 1.5 times applicable rate.*

**D. The important provisions in MWRRRA's BWT Order dated 11/01/2018 are as follows;**

Para 4 of the BWT Order dated 11/01/2018 says

*In order to ensure that water reserved for non-irrigation purpose shall not remain unutilized and available water shall be utilized optimally, non-*



irrigation water utilities are permitted to give phase-wise plan of utilization. In case, non-irrigation utility wants to use allocated water in phased manner, it has to plan so, prior to execution of agreement. Such phase-wise planned water use shall be incorporated in the agreement. The levy of water charges shall be based on such phase-wise planning. But, balance water quantity (total allocated quantity - phase-wise planned water use) should be charged at the rate of 5% towards commitment charges. Similarly, if variation in actual water use and phase-wise planned water use is more than 10%, the assessment shall be done as follows:

In case, actual water use happens to be less than 90% of the phase-wise planned quantity of water, the billing shall be done on the 90% of the quantity of water specified in the agreement. If the actual water use is between 90% to 110% of the corresponding phase-wise water use; billing shall be made as per the standard rate. However, if the actual water use is more than 110% of the planned quantity of water corresponding to that particular phase, the billing of such excess quantity shall be made at 1.5 times of the standard rate. A typical example is enclosed as Annexure 4 for more clarification.

ii. Para 5 of the BWT Order dated 11/01/2018 says

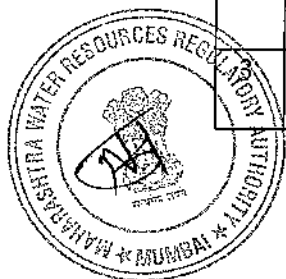
Revised water charges for non-irrigation uses will be applicable from February 1, 2018. The revised water charges for the irrigation will be applicable from the date of commencement of Hot Weather (H.W.) season of the year 2018 as shown in Para 6 of Annexure 1.

iii. Annexure 2 of the BWT order dated 11/01/2018 Bulk Water Rates for Domestic Water Use

#### Standard Rates for Domestic Water Use

Table No. 1

Sr No	Category	Source and Type of Supply	Applicable Rates for Domestic Water Use (Rs. per m <sup>3</sup> )		
			Gram Panchayat	ULBs	Municipal Corporations
(1)	(2)	(3)	(4)	(5)	(6)
1	Assured Water Supply	Water Supply from Reservoir	0.15	0.18	0.25
2	Regulated Water Supply with conveyance loss	River reach downstream of dam, canals and K. T. weirs*	0.30	0.36	0.50
	Partly Assured Water Supply	Water use through natural stream	0.08	0.09	0.13





	*	without any releases from upstream reservoir, canal etc.			
4	If Water user entity has constructed a storage of at least 8 months of its water use and is also maintained at its own cost	Water supply through Water user entity's own dam or has shared the cost in proportion to its water use	0.02	0.03	0.04

source of the water supply of which storage capacity is less than 80% of the water supply through it and which depends on releases of upstream water source (dam, powerhouse etc.) as a backup.

*Note - In case where water user entity has constructed a dam at their cost or has shared the capital cost of dam in proportion to its water use but WRD is incurring expenditure on M and R works then 20% increase shall be applicable in rates at Sr. No. 4, Table No. 1.*

iv. Annexure 2 of BWT Order Norms of Water Use:

The Authority vide Ref. No. 1 of this Order has determined the Criteria for distribution of Surface Water Entitlements by River Basin Agencies for Domestic and Industrial Uses on September 22, 2017. Accordingly, the norms of water supply for domestic use are as follows. The account of applicable water use shall be maintained for water year (1<sup>st</sup> July to 30<sup>th</sup> June).

- |   |            |
|---|------------|
| 1. Grampanchayat  | — 55 lpcd  |
| 2. Peri-urban   | — 70 lpcd  |
| 3. C - Class Municipal Council / Nagarpanchayat         | — 70 lpcd  |
| 4. B - Class Municipal Council                          | — 100 lpcd |
| 5. A - Class Municipal Council                          | — 125 lpcd |
| 6. Municipal Corporation (Population less than 50 Lakh) | — 135 lpcd |
| 7. Municipal Corporation (Population more than 50 Lakh) | — 150 lpcd |

v. Water Rates as per Water use : Para 3 of BWT order dated 11/01/2018

The Bulk Water Tariff for Grampanchayat / Municipal Council / Nagarpanchayat / Municipal Corporations for domestic water supply shall be as follows.



Table No. 2

Sr. No.	Actual Water Use [including leakages, Unaccounted for water and Commercial use]	Applicable Rate
A	Quantum upto 115% of norm based water use	Standard Rate
B	Quantum between 115% - 140% of norm based water use	1.50 times Standard Rate
C	Quantum exceeding 140% of norm based water use	2.00 times Standard Rate

The Authority having considered the provision in Section 11 (d) of the Act, and with an intention to promote efficient water use and encourage water conservation and to discourage wastage of water, has ordered assessment at higher rates for water use exceeding the norm based permissible water use. But, standard rate shall be applicable on entire water use, for those ULBs/ Semi-Government Organizations, who have constructed storages at their own cost and its M and R is also being done at their own cost.

However, no rights can be claimed by paying water charges at higher rates for such excess water use. Urban Local Bodies should focus on measures such as leakage preventing, controlling Unaccounted-For-Water (UFW), promotion of water saving, reuse, rainwater harvesting etc. to keep water use within prescribed limits.

- vi. Para 4 of the Annexure 2 of BWT Order dated 11/01/2018

Townships developed by private or Non-Governmental organizations will be charged at 5 times the applicable rates stipulated for the municipal corporations.

- vii. Para 5 of the Annexure 2 of BWT Order dated 11/01/2018:

Para 5 of Annexure 2 states about Ancillary Provisions:

Para 5.1 of the Annexure 2 of BWT Order dated 11/01/2018 says

As per the Section 6.2 (5) of the Criteria for Distribution of Surface Water Entitlements by River Basin Agencies for Domestic and Industrial Uses issued by MVRRA in September 2017, it has been made obligatory for municipal councils / municipal corporations to submit annual water budget. Applicable water use will be computed on the basis of details submitted in the water budget by bulk water user and will be charged accordingly. In case, municipal councils / municipal corporations are drawing water from more than one source (e.g. WRD and MIDC) for its distribution, it is mandatory to give all these details in their water budget. In such cases, the applicable source-wise penal rates will be levied (if any) in proportion of water supply.



Para 5.2 of the Annexure 2 of BWT Order dated 11/01/2018 says

*Commissioners of municipal corporations / CEOs of municipal councils or Nagar Panchayats shall submit to MPCB and MWRRA within 2 years from the issuance of Order for the Bulk Water Rates, an action plan to establish new / additional sewage treatment plants of capacity capable to treat entire sewage generated to the specified standards. In case of default, 1.50 times tariff stipulated in Table No. 2 will be levied. MIDC will recover the penal charge from ULBs to whom they are supplying water and shall pass on the penal charges recovered to WRD.*

Para 5.3 of the Annexure 2 of BWT Order dated 11/01/2018 says

*During the construction phase of commercial entity, private colonies, townships; the water use will be charged at industrial (process) rate and after completion of the construction (i.e. after receipt of Occupation Certificate), water use will be charged as per the provisions in Para - 4. If both uses are concurrent, different meters are to be installed and assessments be done accordingly.*

Para 5.4 says of the Annexure 2 of BWT Order dated 11/01/2018

*Quantity of water reserved in the reservoir (even though actual use is less) during drought period will be charged at applicable rate including evaporation and conveyance losses.*

viii. Para 7 of the BWT order dated 11/01/2018 states about Penal Provisions:

Para 7.1 of BWT order dated 11/01/2018 says

*Water used without signing the agreement, will be charged at 2 times the applicable rate in Table No. 2, in Para 3 (100% Penal Charges)*

Para 7.2 of BWT order dated 11/01/2018 says

*If ULBs are found to be supplying water from its drinking water entitlement to industrial users / water sports without prior approval of WRD, such water use will be charged at 3 times the applicable industrial water rates retrospectively.*

Para 7.3 of BWT order dated 11/01/2018 says

*In absence of meter or if the meter found to be non-working, the sanctioned quantity of water or recent water use whichever is higher, shall be levied at 1.5 times the applicable rate.*

Para 7.4 of BWT order dated 11/01/2018 says

*Late fee at 10% per annum shall be levied on arrears of water charges.*



ix. Annexure No. 3 of Bulk Water Tariff order dated 11/01/2018

- Para 1 of Annexure 3 of BWT order dated 11/01/2018

**Standard Rates fixed for Industrial Use:**

**Table No. 1**

Sr. No.	Category	Water Supply Type and Source	Standard rates for Industrial Use (Rs. per Cum)	
			Process	Raw Material
(1)	(2)	(3)	(4)	(5)
1	Assured Water Supply	Water use from Reservoir	4.80	120.00
2	Regulated Water Supply with conveyance loss	Water use from regulated river reach below dam, canal / K.T. weirs with backup reservoir	9.60	240.00
3	Partly Assured Water Supply	Water use from exclusively from unregulated rivers without releases from any reservoir / canal	2.40	60.00
4	Reservoir constructed for capacity of at least 8 months requirement by the water use entity at its own cost and maintained at its own cost	Water supply from a private reservoir or from reservoir proportionate cost of which infrastructure and management has been shared by the water user entity	0.77	19.20

- Para 3 of Annexure 3 of BWT order dated 11/01/2018 says

**Rates for Water Charges as per Water Use:**

To promote optimum utilization of water and to restrict wastage of water, increasing block tariff for industrial use shall be as follows:

Sr. No.	Actual Water Use	Applicable Rate
A	Upto 115% of eligible water use as per norms	Standard Rate
B	Water use greater than 115% eligible use	1.50 times Standard Rate

Note - Entire water use of Industries / Water User Entities (ULBs/ Government undertakings) which have constructed reservoirs at their own cost and are performing M&R at their own cost will be entirely charged at standard rate specified at Sr. No. 4 of Table No. 1 with due consideration to Note provided below the table.

- Para 5.2 of Annexure 3 of BWT order dated 11/01/2018 says



*Industries are entitled to use treated effluent provided such use is by way of conveyance through closed pipe from treatment plant (without discharging it into river /na1la). If such water is supplied for irrigating farms, its rates shall not be more than 60% of rates specified for irrigation by fresh water. Similarly, they shall submit details of such water use to WRD.*

- Para 6, Penal Provision of Annexure 3 of BWT order dated 11/01/2018

Para 6.1 Annexure 3 of BWT order dated 11/01/2018 says

*Action as proposed in Para 7.2 (vii) of Reference 1 shall be taken against those industries which are not treating effluent to specified norms. Such industries will be charged at higher rate which shall be twice that of standard industrial rate. Maharashtra Industrial Development Corporation (MIDC) shall be responsible for collecting the water charges at higher rate i.e. twice the standard rate from those industries to whom they are supplying the water but not treating the effluent to specified standards, MIDC shall pass on the water charges so collected to WRD. If Maharashtra Pollution Control Board (MPCB) issues orders to stop the water supply of such industries, MIDC shall discontinue water supply to such industries.*

Para 6.2 Annexure 3 of BWT order dated 11/01/2018 says

*One months notice shall be given for repairing and commissioning of the meter which is found to be tampered/faulty/non-working. Water charges for this period shall be levied on the basis of actual use/ reservation / water use calculations based on specific water consumption as per Criteria issued by MWRRA Order dated September 22, 2017 and production, whichever is more, and at rates 1.25 times the applicable rates. Extension of one month can be given for repairing the water meter depending on specific local situation. Billing in this extended period shall be done at rate 1.5 times the applicable rate. However, if meter is not repaired within this extended time limit, water supply shall be discontinued. In case of MIDC, instead of discontinuing entire water supply, it shall be limited to its domestic entitlement. Water use without installation of meters shall be charged at twice the applicable rate.*

Para 6.3 Annexure 3 of BWT order dated 11/01/2018 says

*Metered water use within the allocated quota sanctioned limits and installing meter without entering into agreement, shall be billed at twice the applicable rates.*



Para 6.4 Annexure 3 of BWT order dated 11/01/2018 says

*Water use without sanction/agreement and without installing meter, shall be billed at 2.5 times applicable rates. Quantity for such use shall be as per*

Para 6.5 Annexure 3 of BWT order dated 11/01/2018 says

*Late fee at 10% per annum shall be levied on arrears of water charges.*

**E. WRD's Government Resolution GR dated 01/12/2018**

The important provisions in WRD's Government Resolution No. Sankirn 2018(511/18) /IM(P) dated 01/12/2018 are as follows;

i. Para 2 of GR dated 01/12/2018 says about

**Definition and scope of Water Reservation**

The term water reservation is not mentioned in the Act. Water reservation and water rights are used synonymously. While approving the water reservation, the future water requirement is calculated taking into consideration the next 30 years and the reservation quantity is calculated accordingly.

- Instead of the term Water Reservation, the term Bulk Water Entitlement should be used as per Section (2) (d) of the Maharashtra Water Resources Regulatory Authority Act, 2005.
- The following paragraphs should be included in the Water Reservation Bulk Water Entitlement sanctioning order by the sanctioning authority

This reservation is only the letter of support for the, water supply scheme or the industry as the case may be. Actual quantity of water that will be supplied every year shall be governed by the entitlement granted to the water user entity by the River Basin Agency based on the population and the reasonable use norm decided by this Authority and the yearly allocation declared by the prescribed Authority on the basis of reservoir contents of the year and shall be subjected to various provisions in the agreement that will be signed by the water user entity with River basin Agency.

ii. Para 3(b) of the G.R dated 01/12/2018 says

According to Maharashtra Water Resources Regulatory Authority, Act 2005 after equitable distribution of water based on water storage



between 15<sup>th</sup> and 30<sup>th</sup> October or in case of change in water storage in the reservoir for any other reason, the Member Secretary should issue revised orders.

A period of next 30 years should be considered to account for population growth while granting bulk water use entitlement.

The sanction period for drinking water reservations / bulk water use entitlement shall be perpetual. Whereas, for industrial category, this sanction period will be 25 years after which it should be renewed as per requirement.

iii. Para 4 of GR dated 01/12/2018 says

District Level Contingency Drinking Water Determination Committee

Annual water planning in reservoirs of irrigation projects is done by two committees. (1) District Level Water Reservation Committee (2) Canal Advisory Committee of the Project. There is confusion among the field officers about the structure, scope, procedure and authority of both the committees. Also, the authority to take decisions regarding water reservation / water use entitlement is vested in the concerned River Basin Agency / Water Resources Department as per the provisions of the Act. Neither the Collector nor Hon'ble Guardian Minister has the power.

iv. Scope of the Committee :-

Para 4 (a) of GR dated 01/12/2018 says about

The committee is to determine only the contingency/occasional drinking water requirement for the period from 15<sup>th</sup> October to 15<sup>th</sup> July.

Para 4 (b) of GR dated 01/12/2018 says

Contingency drinking water quantity will be determined for those villages which are not sanctioned for drinking water reservation / Bulk Water Entitlement of Water Resources Department. If such villages have exhausted or insufficient source of drinking water, they should consider the quantity of water they need directly from reservoirs or through canals.

v. Para 4 (c) of GR dated 01/12/2018 says

The water required for the quantity of contingency water should be calculated by considering the criteria in the order of Maharashtra



Water Resources Regulatory Authority dated 22/09/2017 plus conveyance losses, evaporation etc.

District Level Contingency Water Determination Committee meeting should be held between 5<sup>th</sup> October to 15<sup>th</sup> October so that the requirement of contingency water is determined while calculating the equitable water distribution of basins/sub-basins/projects as per Section 11 (c) and 12 (6) (c) of the Maharashtra Water Resources Regulatory Authority Act.

The Collector and Member Secretary should inform the Executive Director, Irrigation Development Corporation through Coordinating Superintendent Engineer Committee's decision of project-wise/village-wise contingency / incidental water reservation along with the name of concerned user entity as per enclosed Annexure 'A'.

Executive Director should issue orders for approval of Reservation of Contingent Water Demand / Bulk Water Entitlement for that year.

River Basin Agency should also consider the contingency water reservation while issuing basin/sub-basin/project level equitable water distribution order based on the October 15 water storage. Thereafter, Member Secretary, Canal Advisory Committee should take action for deficit sharing as mentioned in Paragraph No.3 (a) and (b).

*After that, a meeting of the Canal Advisory Committee should be held. Contingency non-irrigation reservations or non-irrigation water reservation / change in use / approval of annual quota etc. in the Canal Advisory Committee should not be proposed or sanctioned. The scope of the Canal Advisory Committee is limited to the planning of surplus water for irrigation only.*

**F. Important provisions in Maharashtra Water Resources Regulatory Authority Act, 2005 are as follows;**

*Section 11 (d) to establish a water tariff system, and to fix the criteria for water charges at sub-basin, river basin and State level after ascertaining the views of the beneficiary public, based on the principle that the water charges shall reflect the full recovery of the cost of the irrigation management, administration, operation and maintenance of water resources project;*

*Section 11 (u) the Authority shall review and revise, the water charges after every three years;*

*Section 14 (1) From the date of commencement of this Act, no person shall use any water from any water source without obtaining the Entitlement from the respective River Basin Agency :*





*Provided that, no Entitlement shall be required in case of-*

*(a) any bore well, tube well or other wells which are being used for domestic purposes; and*

*(b) tanks, small reservoirs or catchments of rainwater harvesting with an annual yield capacity as may be decided by the Authority.*

*"Provided further that, the Entitlement under this section shall be required only after the distribution of Entitlement has been determined and the criteria for issuance of Entitlement has been laid under section 11."*

*Explanation:- For the purposes of this section, the expression "person" shall includes individual, group of individuals, all local authorities, association, societies, companies, etc.*

*Section 22 (1) The Government shall by general or special order issued in this behalf authorize any competent officer or officers for each River Basin Agency as Primary Dispute Resolution Officer, to resolve the disputes with regard to the issuance or delivery of water Entitlement, under the Act.*

*Section 22 (2) The Primary Dispute Resolution Officer shall follow such procedure as may be prescribed while hearing the disputes.*

*Section 22 (3) Any person aggrieved by an order of the Primary Dispute Resolution Officer may, within sixty days from the receipt of such order, prefer an appeal to the Authority :*

*Provided that, the Authority may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days*

*Section 22 (4) The Authority shall follow such procedure while hearing the appeals as may be prescribed.*

39. Considering the above facts, the observations of the Authority are as under:

- i. The Appellant - Solapur Municipal Corporation first approached the Authority in 2016. Thus, the history of this case goes back to 2016 details of which are discussed earlier. The Authority in its order dated 29/12/2016 had clearly written that dispute was to be resolved at the field level. The first appeal was submitted to Superintending Engineer. But the second appeal was tried by the Chief Engineer as the PDRO. The PDRO's jurisdiction is laid down in the Section 22 of MWRRA Act, and his jurisdiction is restricted to the issue of entitlement. This case is not a case of entitlement. However, as the field officer tried this case, as per the Authorities order, notwithstanding this technical issue, cognizance to his order was taken by this Authority.
- ii. The Respondent vide its affidavit dated 16/06/2022 argued that this authority does not have jurisdiction to try this case. If the relief



claimed by appellant are taken into consideration, it becomes clear that the whole controversy is lingering around the assumption of the quantity of water and bill of water charges which appellant has been directed to pay as per the decision dated 30/12/2017 taken by the Respondent No 2. Further Para 3 of this affidavit dated 16/06/2022 reads as follows:

*The Respondents say that functions of MWRRA are described in section 11 of the MWRRA Act 2005. The Act of 2005 is the special statute. The dispute, particularly, the dispute related to cancellation of water charges bill, assessment of water charges, correctness of the bill of water charges issued to the appellant and which is raised by the appellant in this appeal does not come within the scope of the said functions. Therefore, the Hon'ble Authority has no jurisdiction to try and to entertain the Appeal.*

- iii. Water charges to any bulk water entity are governed under section 11(d) of the MWRRA Act. Section 11(d) refers to establish water tariff system and fix the criteria of water charges. Section 11(d) reads as follows:

*To establish a water tariff system, and to fix the criteria for water charges at sub-basin, river basin and State level after ascertaining the views of the beneficiary public, based on the principle that the water charges shall reflect the full recovery of the cost of the irrigation management, administration, operation and maintenance of water resource project.*

- iv. Accordingly, the MWRRA issued BWT Orders in 2011, 2018 and 2022. It is pertinent to see section 13 of the MWRRA Act, which reads as follows:

*The Authority and the Dispute Resolution Officer shall for the purposes of making any inquiry or initiating any proceedings under this Act, have the powers as are vested in a civil court, under the code of Civil Procedure, 1908.*

Thus, MWRRA can initiate enquiry and any proceedings under this act.

Further, the Bulk Tariff Order 2018 of the MWRRA has provision in para 15, as follows;

*Powers to remove difficulties - In case any difficulty in implementation of the revised water tariff system, concerned bulk water user/Irrigation Development Corporation/Government can approach to the Authority with Petition. The decision of the Authority as regards to this shall be final and binding.:*



Considering Section 11(d) read with Section 13 of Act, this Authority is of the view that the case filed by Solapur Municipal Corporation is maintainable before the Authority. The Authority is of the opinion that this whole case has to be dealt within the purview of tariff orders of the MWRRA. Thus, decision including jurisdiction in this case is based on tariff orders of the Authority and the powers under Section 13 of MWRRA Act, 2005.

- v. The Respondents have filed 4 affidavits i.e. First dated 12/03/2019, Second dated 17/02/2022, Third dated 16/06/2022 and Fourth dated 09/10/2023. Further, the orders of Superintending Engineer dated 30/12/2017 and the order of Chief Engineer dated 07/03/2018 are on the record. The crucial argument on behalf of the respondents from the above submissions is that the bills are prepared on the basis of Government Resolutions dated 07/04/2003, 10/08/2004, 29/06/2011, and 01/12/2018. In fact, it is pertinent to reiterate what exactly the respondents have quoted.

In the Part of the 3<sup>rd</sup> Page of Respondents affidavit dated 12/03/2019, it is mentioned as follows:

“...as per the Government Resolution dated 10/08/2004 and Government Resolution dated 29/06/2011 the bills for water charges are prepared and issued to Solapur Municipal Corporation, the bills are prepared considering the water losses as per above Government Resolutions...”

Further, the 4<sup>th</sup> Page of the above affidavit reads as follows:

“...but water was released frequently into Bhima River as per demand from Solapur Municipal Corporation and for that whatever water losses are occurred should be accepted by Solapur Municipal Corporation as per G.R. dated 10/08/2004, 29/06/2011 and 01/12/2018...”

In the section of Para wise comments of the affidavit dated 12/03/2019 point no. 2 and 4 mentions as follows:

“...as per Government Resolution dated 10/08/2004 and Government Resolution dated 29/06/2011 the bills for water are charged considering losses...”

It is seen from their affidavits that, they are primarily relying on the quantum of water reserved for the Solapur Municipal Corporation as per Canal Advisory Committee as constituted in the Government Resolution dated 10/08/2004. This, reservation is considered and then



it is the argument of the Respondents that, from the release till the actual lifting of water by Solapur Municipal Corporation, losses in the process are to be considered for billing.

The second page of 12/03/2019 affidavit mentions that after releasing water in Bhima River the distances of K.T. weirs, the storages done in K.T. weirs etc. are considered while deciding losses applied for each K.T. weirs.

During hearing the Respondent explained in details how the losses have been calculated. They also stated as to how the other Municipalities and Grampanchayats also take water after the release and how their quantity is not billed on Solapur Municipal Corporation. They also explained about the unauthorized lifting of water in the process of release and also filling of different K.T. Weirs along the river Bhima from Ujjani to place Takli where the Solapur Municipal Corporation lifts the water. Their argument is as specific quantity is required to be reserved to cater the needs of Solapur Municipal Corporation the quantity in consonance to that by calculating the losses had to be billed.

- vi. It is important to note that even though the respondent in their affidavits insists that these losses are as per 10/08/2004, 29/06/2011 and 01/12/2018 BWT orders, none of these Government Resolutions mention any principle of calculating losses for billing and also any manner in which these losses are to be calculated.

Government Resolution dated 10/08/2004 primarily relates to District Canal Advisory Committee and its functioning. This Government Resolution lays down the process of reservation of the quantity of water for drinking purposes and not for calculating the losses or calculating the quantity for billing. Government Resolution dated 29/06/2011 was issued in accordance with the MWRRA BWT order dated 30/05/2011. The various aspects of these Government Resolutions are discussed subsequently, but it is important to note that the way in which respondent explained their methodology of calculating the losses in this case is not backed by these Government Resolutions in any way.

- vii. It is important to mention here that, the two respondent parties - Superintending Engineer and Chief Engineer referred about Government Resolutions and Government policies as mentioned in their orders;



सोलापूर शहरासाठी उजनी धरणातून आकस्मिक आरक्षण करण्यात आले होते. त्या अनुषंगाने देयक देण्याबाबत कार्यकारी अभियंता यांनी कार्यवाही केली आहे व ती योग्य आहे.

कार्यकारी अभियंता यांचे म्हणणे योग्य असून केलेली आकारणी योग्य आहे. जलसंपदा विभागास स्वतःचे नियम पाळणे गरजेचे आहे.

Similarly, the Chief Engineer's order reads as follows:

विलंब आकार व दंडनीय दराची आकारणी ही शासनाच्या प्रचलित असणाऱ्या नियमानुसार केली असल्याने सोलापूर महानगरपालिकेने सदर रक्कम त्वरित अदा करावी.

सदर आकारणी सुध्दा शासन प्रचलित नियमानुसार असल्याने सोलापूर महानगरपालिकेने सदर रक्कम त्वरित अदा करावी.

viii. It needs to be mentioned that both these authorities have given generic observations about the following of the Government Rules and Government Resolutions and Policies. In fact both of them did not mention any of the Government Resolutions and commented on the applicability of the any of the Government Resolutions and how any of these Government Resolutions are applicable to this case. Further, the points raised by Solapur Municipal Corporation about interpretations of these Government Resolutions, and particularly Government Resolution dated 10/08/2004 have not been dealt by these authorities. Hence, these orders do not validate and support the orders of raising bills by the Executive Engineer, based on any legal argument. The presumption seems because huge quantity of water is reserved accordingly Solapur Municipal Corporation has to be billed for.

ix. The respondents in their affidavit have further pointed to Para 4.2.3 of the MWRRA BWT order dated 30.05.2011 and they have interpreted this Para for calculating the losses. This Paragraph reads as follows:-

*Full levy will be charged for reservation made in reservoirs in drought period for drinking water use including evaporation and transmission use, irrespective of actual drawal.*

The clear wording of this Paragraph is that this is applicable only during the drought period.

In their affidavits the respondents have argued that Government Resolution dated 10/08/2004 is applicable for drought as well as normal period. This Authority does not agree with this contention. It



cannot be interpreted that Para 4.2.3 is applicable even in normal cases, as what has been interpreted by the Executive Engineer while calculating the losses. This Authority is of the clear opinion that, this interpretation of 4.2.3 is wrong. This provision is applicable only in drought period. Further, it is clear that Government Resolution dated 10/08/2004 is not restricted for drought period. It lays down the functioning of the Canal Advisory Committee and also lays down the norms while calculating quantity of drinking water to be reserved during drought season. However, the committee is supposed to meet every year and decide for reservations.

- xi. Further, the respondents have brought in two additional points in this regard. One is that there is no provision of release of water from Ujjani into the Bhima River for Solapur Municipal Corporation and there is no quota fixed by the Government for the Solapur Municipal Corporation. This Authority is of the view that, it is up to the Executive Engineer and concerned field authorities to take actions as per the Government procedure and the law. It is clear that, water is being released to the Solapur Municipal Corporation as per decisions taken in the Canal Advisory Committee. The Executive Engineer, concern field authorities and Solapur Municipal Authorities were required to fulfill the appropriate legal requirement. This is certainly a major lapse on the part of both of them. Thus, the Respondent Officers of WRD and the Solapur Municipal Corporation should complete the requirements of obtaining entitlement as per Section 14(1) of MWRRA Act, 2005 and the Government rules forthwith. However, this cannot be ground for calculating the losses what is done by the Executive Engineer.
- xii. This Authority is of the opinion that, the calculations resorted by the Executive Engineer for losses are arbitrary and not in accordance with Government Resolutions dated 10/08/2004, 29/06/2011 or any of the Government Policies. During the hearing, it was subsequently asked to the respondent to show any government norm for calculating the losses. They could not place before the authority any such Government Resolution other than above mentioned Government Resolutions. The Authority accepts the fact that huge amount of water is required to be reserved to fulfill the demand of the Solapur Municipal Corporation. It is seen that such releases are being made for many years. However, first time in the Year 2016, such losses have been calculated and accordingly said bills were raised. Thus, even if losses are there, when there is no Government policy of calculating losses, the Executive



Engineer cannot calculate losses as per his discretion. Such action has to be backed by Government Policy or MWRRA BWT order.

The Authority also agrees that this is inefficient utilization of scarce water resources. However, this is because of two factors:-

- As mentioned and accepted of the Respondents because various K.T. Weirs from Ujjani Dam to Takli, leakages and unauthorized lifting of water.
- The losses in the process are because Solapur Municipal Corporation has failed to lay down direct pipelines from the Ujjani Dam.

xiii. However, the inefficiency of the system as mentioned in above first factor cannot be put as penalty on the Solapur Municipal Corporation. But, Solapur Municipal Corporation cannot escape the responsibility of laying down the pipeline. Solapur Municipal Corporation in its letter dated 13/10/2023 as mentioned, plan to complete laying down the pipeline by dated 31/03/2025. They must strictly adhere to the deadline.

xiv. Now we come to the BWT Orders of the MWRRA i.e. this Authority.

To recapitulate the history, the Water Resources Department (then Irrigation Department) was fixing the water rates for irrigation and non-irrigation water uses. Water Resources Department (then Irrigation Department) vide Government Resolution No. Sankirna 10 00/(326/ 2000)/IM (P), dated 29/05/2001 revised the water rates. As per the said Government Resolution, the Appellant's Bhima Water Supply Scheme fell under the rates for Domestic Use with source category - From River downstream of Dam with sub-category if storage tank is not there as per norms. These rates were applicable from 01/07/1993 onwards.

Water Resources Department (then Irrigation Department) vide Government Resolution No. Sankirna 2002/(148/ 2002)/IM (P), dated 28/11/2002 revised the water rates and were applicable from 01/07/2000. The Appellant's Bhima Water Supply Scheme source category was same as per the earlier Government Resolution. However, this Government Resolution did not specify of adding conveyance and evaporation losses for calculating the water quantity supplied for billing.



Water Resources Department vide Government Resolution No. PAPD 2006/(396/ 03)/IM (P), dated 31/07/2006 revised the water rates and were applicable from 01/09/2006. The Appellant's Bhima Water Supply Scheme source category was same as per the previous Government Resolutions. However, this Government Resolution also did not specify of adding conveyance and evaporation losses.

- xv. The Government of Maharashtra in June 2005 enacted the MWRRA Act, 2005. As per Section 11(d) and Section 11(u) of the said Act, this Authority, vide Order letter No. MWRRA 2011/BWT-Order/(59)/ 315 dated 30/05/2011 fixed Bulk Water Tariff (BWT) from 2010-11 to 2012-13.

The water charges determined by this Authority vide the order dated 30/05/2011, were extended from 2013 till January 2018. The Authority reviewed and revised water charges under Section 11(u) of MWRRA Act, 2005 and issued BWT Order No. 01/2018 dated 11/01/2018. The water charges were applicable from February 2018 onwards.

Notwithstanding, the above facts the tariff has to be and can be levied only in accordance with order of the MWRRA dated 30/05/2011.

The tariff order dated 30/05/2011 has following provisions:

Sr. No.	Source of Supply	GPs	ULBs	Municipalities/ Corporations
1.	<i>Assured Water Supply Major/Medium reservoir/ storage tank without canal</i>	1.32	1.58	2.10
2.	<i>Regulated Water Supply with Transmission Loss Regulated river portion below dam/canal lift / K.T. weir with back up reservoir / tail race from reservoir</i>	2.64	3.15	4.20
3.	<i>Partly Assured Water Supply Minor reservoir with canal / K.T. weir without back up reservoir/ unregulated rivers without even any K.T. weir or in unregulated river portion flowing within a command area where there is no bandhara or K.T. weir</i>	0.67	0.79	1.05
4.	<i>Reservoir Constructed by the Water User Entity/ User Entity Shared Proportional cost</i>	0.44	0.53	0.70





Sr. No.	Source of Supply	GPs	ULBs	Municipalities/ Corporations
	Water user agency (Gram Panchayats, ULBs, Municipal Corporations and other such utilities) has shared proportional cost of infrastructure or constructed dam/bandhara/ katcha bandhara /K.T. weir at own cost			

It is clear from this order that case of Solapur Municipal Corporation falls under Regulated Water Supply with Transmission Loss category at Serial No. 2. It is also clear from this order that this tariff order has differential tariff rates. This differential tariff rate takes into consideration type of supply i.e. 1) Assured Water Supply 2) Regulated Water Supply with transmission loss. Thus, these provisions clearly take into account the transmission losses. Having such explicit provision in the tariff order, the Executive Engineer could not have gone beyond this order and evolved his own methodology for calculating the losses. It is to be mentioned here that the rate at which Solapur Municipal Corporation is billed as per higher rate Rs. 4.20/10 cubic meter which takes into account the losses.

- xvi. Another important point which needs to be mentioned here is the contract agreement between Solapur Municipal Corporation and the Executive Engineer, Bima Development Division of WRD. This contract agreement dated 29/12/2014 clause 8(a) of this agreement reads as follows:

*For ascertaining the quantity of water drawn by the company, the company shall forthwith at its own cost and after obtaining prior approval in writing thereof the Executive Engineer install independent pipelines fitted with separate electronic water measuring devices for use of water for the said independent intention (hereinafter referred to as the said electronic measuring devices) at such places as in indicated by the Executive Engineer. All the pipeline showing locations of the metering equipments from the said source for different purposes shall be got jointly verified and got approved from Executive Engineer, Irrigation Department. Layout from the said source shall be got approved from the Executive Engineer. No changes in the approved layout shall be made without the prior written approval from the Executive Engineer. In the event of the company failing to install and keep in proper working order the said electronic measuring devices for use of water for the said plant and supply to the said residential colonies as aforesaid the company shall be liable to pay for the full sanctioned water quota as mentioned in*



*clause 8(d) I and II. During such period 125% of the proportionate sanctioned quantity will be charged at the prevailing rates for the plant. The said electronic measuring devices shall always be kept under the lock and seal of the Executive Engineer and the key of such lock shall at all times remain with the Executive Engineer. The company shall at all times during the substance of this agreement at its own cost maintain the said electronic measuring devices in proper working order and condition.*

This is explicit provision in the contract between Solapur Municipal Corporation and Executive Engineer, Bima Development Division of WRD. As per the Agreement, the source of water for SMC is at Takli on Bhima River and the quantity of water drawn is to be ascertained by installed measuring system.

Thus, on one hand this Authority has calculations of Executive Engineer which in their opinion are based on 2004 and 2011 Government Resolution which we have already said are not applicable for this case, and on the other hand the clear provision of the MWRRRA Tariff order dated 30.05.2011 and the clear provision of the Contract Agreement between Solapur Municipal Corporation and Executive Engineer. Thus, this Authority is of the opinion that as in the Tariff Order the losses are inbuilt in differential tariff rates, the quantity has to be measured by the meter, and the rate should be as specified in the tariff order for regulated water supply with transmission losses as per 2011 Tariff Order.

xvii. During the hearing, respondent vehemently argued about the huge losses of water while fulfilling demands of Solapur Municipal Corporation. This point is well taken. However, there may be many of such scenarios in the State in other areas too. While fixing the tariff, the MWRRRA takes in the account views of all stakeholders and importantly that of the Water Resources Department. For BWT order 2011 such consultations were done and based on all consultations, the tariff for regulated water was finalized. In case, Water Resource Department wants MWRRRA to take into account the scenarios as under this case, they should bring to the notice of the authority during next tariff order, but at this juncture the executive authorities cannot go beyond the existing tariff order. Further, Water Resources Department also would be at the liberty to frame policy of calculating losses and quantity under such circumstances.

xviii. On the issue of closed pipelines, the Authority vide its Order dated 26/10/2015 disposed off Case No. 5 of 2015 i.e. Petition filed by Shri.



Bharat Tukaram Bhalke in the matter of Releasing Water for equitable distribution in the Bhima sub-basin upto the Ujjani Reservoir. While disposing off the Petition, the Authority directed that the proposal of a closed pipe line for drinking and industrial water supply directly from the Ujjani reservoir has to be implemented by the Solapur Municipal Corporation in a time bound manner and the huge wastage of water that is supplied to the Takali (Aunj) weir should be stopped. However, still after passage of eight years, the Appellant has not yet implemented the said pipeline. Now, the Appellant, vide letter dated 13/10/2023, submitted the details and status of the parallel pipeline from Ujjani Dam and it was proposed to complete the said pipeline within 21 months.

However, this Solapur Municipal Corporation needs to be made accountable for non-laying of the pipeline for all these years. Thus, the respondent no. 1, 2 and 3 would be at liberty to take action in accordance with their Contract Agreement with the Solapur Municipal Corporation on the provisions of pipeline and construction of requisite water storage structures. As the Authority had earlier in the year 2015 passed an order for laying the pipeline and though the Solapur Municipal Commissioner has submitted vide his letter dated 13/10/2023 to the Authority that the work of the pipeline will be completed within 21 months. It is ordered that, the six monthly (half yearly) Compliance Report should be submitted to the authority in the form of affidavit. The first compliance report of such affidavit should be submitted by 15/07/2024. This being the issue of wastage of water, the Water Resource Department, Government of Maharashtra should take up this issue with the Urban Development Department which is the controlling department of Solapur Municipal Corporation to intervene so that this work of the pipeline is completed as scheduled.

- xix. So far as the issue of Sewerage Treatment Plan is concerned, as per para 4.2.3 of BWT order 2011 for penal charges are enforced if SMC fails to prepare and submit to the MPCB and to the Authority and implementation program for setting up new / additional STPs of required capacity to treat the sewerage effluent to the required standard failing which penal charges of one and half time applicable rate will be charged thereafter. Whereas, similar provisions are there in para 5.2 of Annexure 2 of BWT order of 2018. Therefore, the penal charges for not submitting implementation program for setting up new / additional STPs of required capacity should not have been levied to the appellant.



## Order

40. 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:
- i. The Order of Respondent No. 3's dated 30/12/2017 and Respondent No. 2's dated 07/03/2018 are quashed and set aside.
  - ii. Respondent should charge the Appellant, Solapur Municipal Corporation as per quantity of lifted water for domestic and Industrial use in accordance with Water Supply Agreement and subsequent rates prescribed in Bulk Water Tariff order under the category of "Regulated water supply with transmission loss".
  - iii. Executive Engineer should levy penal charges as per this Authority's BWT Order.
  - iv. The Appellant should implement an additional direct water supply pipeline from Ujjani Dam to substitute water supply to Bhima River at Takli as mentioned in para 39(xviii) of the order. The Appellant is further directed to file a compliance report in the form of an affidavit as mentioned in para 39(xviii). The Appellants & Respondents should complete procedural aspect of entitlement as mentioned in para 39 (xi).
  - v. The Appeal is accordingly disposed of with no order as to the costs.
- Delivered on April 16, 2024.

Sd/-

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

Sd/-

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

Sd/-

(Dr. Sanjay Chahande)  
Chairperson



*Sanjay Chahande*  
SECRETARY

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