



सत्यमेव जयते

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

(महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, 2005 चे कलम 3 अन्वये स्थापित वैधानिक प्राधिकरण)

Maharashtra Water Resources Regulatory Authority

(A Statutory Authority Established u/s 3 of Maharashtra Water Resources Regulatory Authority Act, 2005)



स्वातंत्र्याचा अमृत महोत्सव

File No. MWRRRA/2017/Legal/Case No. 4(2017)/662

Date : 25/11/2024

Case No.4 of 2017

Petition filed by Mr. Shankar Anand Nagre & Mr. Shamsundar Uttamrao Naik, Marathawada Janta Vikas Parishad, Chhatrapati Sambhajinagar in regard to revision of Table 5 & 6 of Mendhegiri Committee Report for Equitable Distribution of water in Upper Godavari sub-basin

Please find enclosed herewith a copy of MWRRRA Order No. 05/2024 dated 25/11/2024 in the above matter.

Encl : As Above



(Narendra Tayade)
(Narendra Tayade)
For Secretary, MWRRRA

Copy for information & necessary action to :-

1. Mr. Shankar Anand Nagre & Mr. Shamsundar Uttamrao Naik, both Members of Marathawada Janta Vikas Parishad, Nageshwarwadi, Chhatrapati Sambhajinagar through Adv. Yashodeep Deshmukh, 2nd floor, Natwar Chambers, Nagindas Master Road, Fort, Mumbai - 400 001. (Petitioner)
2. Principal Secretary, Water Resources Department, Mantralaya, Mumbai - 400 032. (Respondent No. 1)
3. Executive Director, Godavari Marathwada Irrigation Development Corporation, 1st floor, Sinchan Bhavan, Jalna Road, Chhatrapati Sambhajinagar - 431 005. (Respondent No. 2)

4. *Padmashree Dr. Vitthalrao Vikhe Patil S. S. K. Ltd through Dr. Bhaskar Kharde R/o Bhagvatipur, Taluka Rahata, District Ahmednagar through Adv. Siddharth R. Karpe, C-11, Ground Floor, Conmos Trade Place, Annex 8-10, Khatau Building, Alkesh Dinesh Modi Marg, Fort, Mumbai - 400 023. (Intervenor No. 1)*
5. *Harishchandra Co-operative Pani Purvatha Sansthanche Co-operative Fedration Ltd. Amrutnagar, Taluka Sangamner, District Ahmednagar through Adv. R. L. Kute, F-3 P-73, Hariom Apartment, Mayurban Colony, Shahnoorwadi, Chhatrapati Sambhajnagar - 431005. (Intervenor No. 2)*
6. *Sanjivani (T) S.S.K. Ltd through Chairman Bipindada Shankarrao Kolhe R/o Yesgaon, Taluka Kopargaon, District Ahmednagar through Adv. P. N. Patil, 8-B, Second Floor, 35 Ambalal Doshi Marg, Opp. Hamam House, Fort, Mumbai- 400 023. (Intervenor No. 3)*
7. Secretary (WRM & CAD), Water Resources Department, Mantralaya, Mumbai - 400 032.
8. Executive Engineer, Jayakwadi Irrigation Division, Nath Nagar (N), Paithan - 431107



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महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

(महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण अधिनियम, 2005 चे कलम 3 अन्वये स्थापित वैधानिक प्राधिकरण)

Maharashtra Water Resources Regulatory Authority

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स्वातंत्र्याचा अमृत महोत्सव

ORDER NO. 05/2024

(Case No.4 of 2017)

Petition filed by Mr. Shankar Anand Nagre and Mr. Shamsundar Uttamrao Naik, Marathawada Janta Vikas Parishad, Chhatrapati Sambhajinagar in regard to revision of Table 5 & 6 of Mendhegiri Committee Report for Equitable Distribution of water in Upper Godavari sub-basin

1. Mr. Shankar Anand Nagre
R/o Datta Niwas,
CIDCO, Chhatrapati Sambhajinagar
2. Mr. Shamsundar Uttamrao Naik,
R/o Vivekanand Nagar,
CIDCO, Chhatrapati Sambhajinagar

....Petitioners

1. Padmashree Dr. Vitthalrao
Vikhe Patil S.S.K.
At-Post Bhagvatinagar,
Taluka Rahata, District Ahmednagar
2. Harishchandra Co-operative Pani
Purvatha Sansthanche Co-operative
Federation Ltd. Amrutnagar
Taluka Sangamner, District Ahmednagar

3. Sanjivani (T) Sahakari Sakhar
Karkhana Ltd, At-Post Yesgaon,
Taluka Kopergaon, District Ahmednagar

....Interveners



----Vs-----

1. State of Maharashtra
Through its Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai.
2. Executive Director,
Godavari Marathwada Irrigation
Development Corporation,
Sinchan Bhavan, Jalna Road,
Chhatrapati Sambhajinagar

....Respondents

Adv. Yashodeep Deshmukh for the Petitioners

Adv. Siddharth Karpe, Advocate for the Intervener No. 1

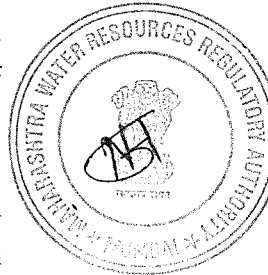
Adv. R. L. Kute, Advocate for the Intervener No. 2

Adv. Pramod N. Patil, Advocate for the Intervener No. 3

**Coram : Dr. Sanjay Chahande, Chairperson
Shri. Rajendra Mohite, Member (WRE)
Adv. Dr. Sadhana S. Mahashabde, Member (Law)**

Date : November 25, 2024

1. Mr. Shankar Anand Nagre and Mr. Shamsundar Uttamrao Naik, Marathawada Janta Vikas Parishad, Chhatrapati Sambhajinagar filed a Petition on 09/08/2017 before Maharashtra Water Resources Regulatory Authority (MWRRA) regarding revision of Tables No 5 and 6 of Mendhegiri Committee Report for Equitable Distribution of water in Upper Godavari sub-basin. The Petitioners submitted that both are agriculturists and representing the grievances of agriculturists under the command area of Jayakwadi Project.
2. The Petitioners submitted that this Authority, vide its decision dated 19/09/2014, rejected equitable distribution of water to the Command Area



of Jayakwadi Dam under Section 12 (6) (c) of MWRRA Act, 2005 on the grounds that delineation of Command Area is not notified. The Hon'ble High Court vide its Order dated 23/09/2016 upheld this decision. However, the Mendhegiri Committee and this Authority have not carefully studied water use shown in Tables No 5 and 6 as there are basic misconceptions in preparing those tables. Hence, this Petition is filed as per Para 195 (xi) of the Hon'ble High Court's Order.

3. The Petitioners further submitted that Jayakwadi Project on Godavari River was approved in the Year 1965. As per approved project report 81 Thousand Million Cubic Meters (TMC) water for Jayakwadi Project and 115.5 TMC water for dams in Upper Godavari sub-basin which was increased to 160.89 TMC till the Year 2013. Therefore, Government of Maharashtra banned the construction of project in upstream of Jayakwadi Dam vide letter dated 06/09/2004. This proves that Jayakwadi storage deficit is created only because of additional storages / utilisation created in upstream of Jayakwadi Dam.
4. The Petitioners further submitted that because of uneven distribution of water, Water Resources Department constituted the Study Group to formulate guiding principles on the integrated operation of reservoirs in Upper Godavari sub-basin. The Study Group submitted their report in August 2013 along with Table 5 and 6 showing dam storages and operating strategies for filling the dams. The Petitioners observed that only Kharif use is considered in Strategy - I. The Tables do not consider number of Minor Irrigation (M.I.) and Kolhapur Type (K.T.) weir's water use while distributing water to Paithan Dam and the figures shown in Strategy - III are not adequate to decide equitable water use. As upstream dams already have 53% water, there is no need to calculate and store additional non-irrigation water, and hence Table No. 5 need not be followed. The carryover of Jayakwadi dam is not considered in Table No. 5. The upper basin will get always more water and in addition extra water use of M.I. and K.T. weirs. Therefore, both Table Nos. 5 and 6 needs to be reviewed and corrected.
5. The Petitioners further submitted that it should be obligatory to release water for the Paithan dam beginning in August or immediately after filling upper dams up to the spillway crest as against decision of MWRRA's Order dated 19/09/2014 regarding releasing water after 15th October. It is unjustified and irrelevant decision as to not release water after Jayakwadi Dam filled upto 65% of its design capacity. No adequate efforts are taken by



the Mendhegiri Committee or MWRRA for looking into correctness of the figures of water availability and water use. Similarly, water used for Rabi season is proposed by deducting carryover water.

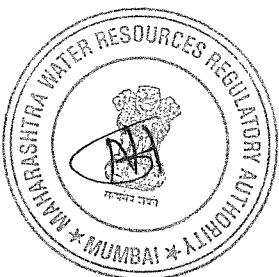
6. The Petitioners proposed three methods for equitable distribution of water i.e. distribution of water should be done in the percentage of water use as proposed in approved project report, water should be reserved as per first come first serve basis i.e. time of construction, distress in sub-basin shall be shared equitably every year as per Section 12(6)(c) of MWRRA Act 2005, water to be released on priority to Jayakwadi Dam in the month of July/August as per principle of tail to head irrigation stated in Section 12(7) of MWRRA Act 2005 and procedure of equitable distribution of water needs to be done on 15th July, 15th August, 15th September and 15th October every year as per Section 12(6)(b) of MWRRA Act 2005. The decision given by the MWRRA in its Order dated 19/09/2014 under Para 10 (a) to (g) are not relevant or justified and needs rectifications. Therefore, the Petitioners prayed that;

- A) *Table No 5 and 6 shown in the Mendhegiri report be corrected in the light of background given and corrected tables be operated and implemented without any further delay.*
- B) *The water for Kharif use to the Command area under Jayakwadi be made available at least from July every year and in this case it be made available from August 2017.*
- C) *The reliefs equitable and proper to suits the needs of people under Jayakwadi Command Area may kindly be given and Jayakwadi should be given due share i.e. for 41% of the water available in Godavari Basin and same be ensured before 31st October every year.*

7. After receipt of Petition on 09/08/2017, Padmashree Dr Vitthalrao Vikhe Patil S.S.K. Ltd through Adv. Siddharth Karpe filed Intervention Application dated 04/11/2017. The Intervener submitted that his Writ Petition in the Hon'ble Bombay High Court was heard and disposed off along with Public Interest Litigation No. 173/2013 and the Petitioners have never bothered to make present Intervener a party Respondent. Any decision of the Authority in present Petition shall greatly prejudice the Intervener and important facts, documents etc. can be placed on record. Hence, they are necessary and proper party and carves leave to file detailed Affidavit.



8. The Authority conducted the first hearing in the matter on 21/11/2017. During the hearing, the Authority allowed the Intervention Application filed by Adv. Siddharth Karpe. The Authority also observed that as per the Para 195 (xi) of Hon'ble High Court's Order dated 23/09/2016 in PIL 173/2013, the Authority has to take periodic review or revision of the principles laid down in the Authority's Order dated 19/09/2014. The Authority directed the Respondents to file Affidavit in Reply and the Petitioners and Interveners may file their say. The next Hearing in the matter was scheduled on 03/01/2018. However, due to Maharashtra Band the Petitioner and Intervener requested to postpone the Hearing.
9. Meanwhile, Harishchandra Co-operative Pani Purvatha Sansthanche Co-operative Federation Ltd. Amrutnagar, Taluka Sangamner, District Ahmednagar filed Intervention Application dated 03/01/2018. The Applicant is a registered co-operative lift irrigation societies and lifting water from Pravara river for irrigation purpose. The Applicant briefed about chronology of construction of Nilwande Dam. The Applicant submitted that present Petition is not maintainable as the matter is already decided by the MWRRRA and Hon'ble High Court and is now pending before Hon'ble Supreme Court. Thus, the present petition about review of MWRRRA's Order dated 19/09/2014 is liable to be dismissed and if any adverse orders are passed, the Applicant would suffer irreparable loss. Therefore, it is necessary to allow Applicant to intervene in the present Petition.
10. The 2nd hearing in the matter was conducted on 31/01/2018. During the hearing, the Petitioners submitted additional documents. The Authority observed that the Respondents have not complied the directions given in the previous hearing and expressed its displeasure. The Authority directed that the Respondents to file Affidavit in Reply and Rejoinder if any to be filed by Petitioner and Intervener. Accordingly, the Respondents have filed para-wise Affidavit in Reply dated 01/03/2018 and submitted that the MWRRRA vide its Order dated 19/09/2014 given the analysis with reason for applicability of Section 11(c) and 12 (6) (c) of MWRRRA Act, 2005. The Mendhegiri Committee / Godavari Study Group (GSG) has conducted literature review and studied various norms and regulation. The GSG studied the hydrological aspect of water planning of Jayakwadi Project and also rainfall characteristics, inflows in various reservoirs in the sub-basin are



reviewed. Hence, the Petitioner's contentions about mis-concepts in preparing / considering figures in Table 5 and 6 are unacceptable.

11. The Respondents further submitted that as per Hon'ble High Court's Order dated 23/09/2016, State Government will take policy decision on the issue of carrying out exercise of review of storage capacity of all reservoirs and undertaking hydrology of Godavari sub-basin. The MWRRA observed that GSG Report being a report of an expert body, it can be considered as a material for deciding the issue. The dependable year of Paithan dam is considered as study year for the whole sub-basin, so that the performance of the all complex can be evaluated in realistic approach. Taking into account the priorities of water usage as per state water policy, the demand are curtailed and water balance analysis for study year is carried out till the complex perform successfully to meet the variable demands.
12. The Respondents further submitted that as per GSG Report, Minor Irrigation tanks, K. T. weirs are small size and scattered, so their contribution of inflow in Paithan dam is very less. Also 7 Medium dams of Aurangabad district mostly which are located in drought area and local sector tanks are not considered in distributing the water. Regarding carry over storage, it is submitted that it was deducted not only in Paithan Dam but also in Mula and Gangapur complex. As per definition of carry over storage given in IS 7323-1994, while considering annual water demand, it is necessary to deduct carry over storage. As per MWRRA Act, 2005, the water stored in the reservoir in sub-basin or basin shall be controlled by the October end every year in such way that percentage of utilisable water including kharif use shall approximately be same. Strategies are worked out on dependability concepts, so water is not available in the July end for spillway above crest. The reservoir operation in monsoon is done as per sanctioned Reservoir Operating Schedule of each dam.
13. The Respondents further submitted that as per MWRRA's observation it will be logical to regulate upper reservoir as per the guiding principles after taking review of storage position in upstream complexes, storage in the Jayakwadi Dam and return rainfall normally in the first fortnight of October, so that the equitable distribution of available water is achieved by the end of October. Considering the phenomenon of return rainfall and Reservoir Operating Schedule of upper reservoirs, it is not justifiable to release water in July/August each year.



14. The Authority conducted 3rd hearing in the matter on 08/03/2018 and during the hearing, Sanjivani (T) Sahakari Sakhar Karkhana Ltd. filed Intervention Application. The Intervener submitted that his Writ Petition filed before Hon'ble High Court at Bombay was heard and disposed off along with Public Interest Litigation No. 173/2013 and the Petitioners have never bothered to make present Intervener a party Respondent. Any decision of the Authority in present Petition shall greatly prejudice the Intervener and important facts, documents etc. can be placed on record. Hence, they are necessary and proper party and carves leave to file detailed Affidavit. The Authority, as per the provisions in its Order dated 19/09/2014 and Para 195 (xi) said Hon'ble High Court Order dated 23/09/2016, expressed its intention to undertake revision / review of the Guiding principles laid down in it's order dated 19/09/2014. During such review the issue pointed out by the Petitioner in this Petition can also be addressed on merit. The review process shall be undertaken in following stages:-

- i) Data Validation - At this stage relevant data having material bearing on the principles or strategies shall be validated.
- ii) Conceptual Review - At this stage the concepts and logic applied for framing the strategy tables shall be reviewed.

The Authority also stated that during the data validation and review process, Petitioners, Respondents, Intervenors of this Petition and all parties involved in Case No. 1 of 2014 will be given opportunity to present their views. The parties will be given reasonable time to file their say, if so desired.

15. Accordingly, the Authority vide Public Notice dated 05/04/2018 had called objections / suggestions on Statement 1 to 11 and Annexure 1 to 7 of Godavari Study Group Report. Based on the comments received and updated yield data of project, drinking water demands, reduction in storage due to siltation, Statement 1 to 11 & Annexure 1 to 7 are revised which were kept on website along-with brief note in February 2020. Thereafter, due to end of tenure of Chairman and Members, no further action has been taken.

16. The newly constituted Authority reviewed the said matter and vide letter dated 15/05/2023 wrote to the Water Resources Department about constituting a Study Group to review Godavari Study Group Report



(Mendhegiri Committee). The State Government constituted a Study Group vide Government Resolution dated 26/07/2023.

17. The Authority conducted the final hearing on 20/08/2024. The Advocate for the petitioner and the petitioner himself were presented for the hearing. During the hearing the Authority asked the advocate of the petitioner whether they wanted review of table 5 and 6 as mentioned in the first prayer of the petition. Both the petitioner and the advocate affirmed so, and also wanted to argue in detail as to why and how the revision of table 5 and 6 should be done.
18. It is clear that Authority in its record of proceedings in pursuance of its 3rd hearing dated 08/03/2018 had made it clear that review of table was being undertaken. Further, as mentioned above the Government has also constituted the Study Group to review the earlier Godavari Study Group Report (Mendhigiri Committee). Once the report of the Study Group is obtained, the process of review as per para 195 (xi) of the Hon'ble High Court order in PIL 173/2013 would be completed. Further, it is to be seen that, PIL 169/2023 and others are also pending before Hon'ble High Court and review is one of the issues before the consideration of the Hon'ble High Court. During the hearing it was made clear to the petitioner that, due opportunity would be given to him at the appropriate time when the Authority would take up the review as per the Hon'ble High Court directives. Hence, no further order on his first prayer needs to be passed at this juncture.
19. It is seen that his other prayers pertain to equitable and proper availability of water to suit needs under Jayakwadi area and that Jayakwadi be give share of 41% of water available in Godavari Basin. As mentioned in the petition, these prayers are based on the argument that water to be made available should be in accordance with Section 12(6)(c) of the MWRRA Act. Thus, it seems that the petitioner wants relief under Section 12(6)(c) of the MWRRA Act rather than Section 11(c) under which this authority has given relief to the area in its judgment in case 1/2014 dated 19/09/2014. The reasons of applicability of Section 11(c) as against Section 12(6)(c) have been discussed extensively in the Authority judgment. This argument need not be elaborated again at this stage. Further, same issue has been dealt by the Hon'ble High Court in its judgment PIL 173/2013 and others in the order dated 23/09/2016. Appeal against this order and other bunch of petitions



has also dismissed by the Hon'ble Supreme Court vide its order dated 02/04/2024. Hence, these two prayers in this petition cannot be entertained.

Order

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

- a) Petition is disposed.
- b) However, the petitioner would be at liberty to approach this Authority once the revision is undertaken as discussed in the Para 18 of this Judgment.
- c) Therefore, the Petition under Case No. 4 of 2017 is disposed off along with intervention applications with no order as to the costs.

Delivered on November 25, 2024.

Sd/-

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

Sd/-

(Shri. Rajendra Mohite)
Member (WRE)

Sd/-

(Dr. Sanjay Chahande)
Chairperson



For SECRETARY
MAHARASHTRA WATER RESOURCES
REGULATORY AUTHORITY
World Trade Centre-1, 9th Floor,
Cuffe Parade, Mumbai-400 005.

A. Jayade

