

महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

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

Maharashtra Water Resources Regulatory Authority

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

File No. MWRRA/2017/Legal/Case No. 5(2018)/366

Date : 10/07/2025

Case No. 5 of 2018 - In the matter of Petition filed by Shri. Shankar A. Nagre & Shri. Satish. G. Joshi through Adv. Yashodeep Deshmukh in the matter of not transferring water for Non-Irrigation reservation from Gangapur & Darna Complex which supplies water to NM Express Canal

And

Case No. 14 of 2019 - A Petition filed by Shri. Rajendra Ghumare & 2 others in the matter of inter-basin diversion of water from Bhavali Dam by G.R. dated 23/03/2018 & 29/03/2017 issued by State Government contrary to MWRRA Act.

Please find enclosed herewith a copy of MWRRA Order No. 04/2025 dated 10/07/2025 in the above matter.

Encl : As Above

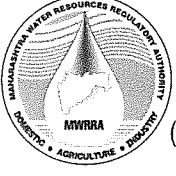


M. Dharane
(Mallikarjun Dharane)
Secretary, MWRRA

Copy for information & necessary action to :-

1. Shri. Shankar A. Nagre & Shri. Satish. G. Joshi, Members of Marathawada Janta Vikas Parishad, Nageshwarwadi, Chhatrapati Sambhajinagar through Adv. Yashodeep Deshmukh, Office No. 210, 2nd floor, Commerce House, Nagindas Master Road, Fort, Mumbai - 400023. (Petitioner - Case No. 5 of 2018)
2. Shri. Rajendra B. Ghumare, R/o Pathare, Taluka Sinnar, District Nashik & 2 others through Adv. R. L. Kute, F-3, Plot No. 73, Hari-Om Apartment, Mayurban Colony, Shahnoorwadi, Chhatrapati Sambhajinagar - 431005 (Petitioner - Case No. 14 of 2019)

3. Principal Secretary, Water Resources Department, Mantralaya, Mumbai - 400032 **(Respondent No. 1)**
4. Executive Director, Godavari Marathwada Irrigation Development Corporation, 1st floor, Sinchan Bhavan, Jalna Road, Chhatrapati Sambhajanagar - 431 005. **(Respondent No. 2)**
5. Executive Director, Konkan Irrigation Development Corporation, 2nd floor, Sinchan Bhavan, Kopari Colony, Bara Bungalow Area, Thane (E), 400603. **(Respondent No. 3)**
6. Chief Executive Officer, Zilla Parishad-Thane, Shivaji Path, Station Rd, Jambli Naka, Thane West - 400601 **(Respondent No. 4).**
7. Chief Engineer, Maharashtra Jeevan Pradhikaran, New Administrative Building, Kanya Nagar, Kopri, Thane - 400603. **(Respondent No. 5)**
8. Hydraulic Engineer, Municipal Corporation of Greater Mumbai, Hydraulic Engineer Office, 1st floor, Dr E Moses Road, Worli Naka, Mumbai - 400018 **(Respondent No. 6).**



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण

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

Maharashtra Water Resources Regulatory Authority

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ORDER NO 04/2025

Case No. 5 of 2018 - In the matter of Petition filed by Shri. Shankar A. Nagre & Shri. Satish. G. Joshi through Adv. Yashodeep Deshmukh in the matter of not transferring water for Non-Irrigation reservation from Gangapur & Darna Complex which supplies water to NM Express Canal

And

Case No. 14 of 2019 - A Petition filed by Shri. Rajendra Ghumare & 2 others in the matter of inter-basin diversion of water from Bhavali Dam by G.R. dated 23/03/2018 & 29/03/2017 issued by State Government contrary to MWRA Act.

Shri Shankar Anand Nagre & Ors ,
R/o. Pathare Taluka Sinnar,
District Nashik and 2 Others

in Case No. 5 of 2018

Shri. Rajendra Bhagwatrao Ghumare & Ors,
R/o. Pathare Taluka Sinnar,
District Nashik and 2 Others

in Case No. 14 of 2019

....Petitioners

----Vs-----



1. Principal Secretary, Water Resources Department, Mantralaya, Mumbai.
(Respondent No 1)

2. Executive Director, Godavari Marathwada Irrigation Development Corporation, Sinchan Bhavan, Jalna Road, Chhatrapati Sambhajinagar. **(Respondent No 2)**
3. Executive Director, Konkan Irrigation Development Corporation, Kopari Colony, Thane **(Respondent No 3)**
4. Chief Executive Officer, Zilla Parishad, Thane **(Respondent No 4)**
5. Chief Engineer, Maharashtra Jeevan Pradhikaran, Thane **(Respondent No 5)**
6. Hydraulic Engineer, Municipal Corporation of Greater Mumbai, Worli Naka, Mumbai **(Respondent No 6)**

.....Respondents

Adv. Yashodeep Deshmukh, Advocate for Petitioners in Case No. 5/2018

Adv. R. L. Kute, Advocate for Petitioners in Case No. 14/2019

Adv. Shakuntala Wadekar, Advocate for Respondent No. 1 to 3

Adv. Bhavna R. Khichi, Advocate for Respondent No. 4

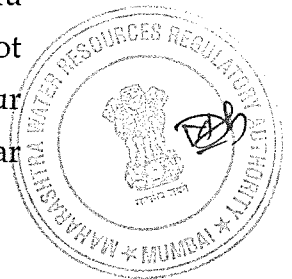
Adv. Rupali Deshpande, Advocate for Respondent No. 5

Adv. S. P. Sardar, Advocate for Respondent No. 6

**Coram : CA. Shwetali A. Thakare, Member (Economics)
Shri. Rajendra Mohite, Member (WRE)**

Date: July 10, 2025

1. Marathawada Janta Vikas Parishad, Chhatrapati Sambhajinagar through Shri. Shankar A Nagre and Shri. Satish G. Joshi through Adv. Yashodeep Deshmukh filed a Petition dated 01/06/2018 before the Maharashtra Water Resources Regulatory Authority (MWRRA) in the matter of not transferring water for Non-irrigation (NI) reservation from Gangapur and Darna Complex which supplies water to Nandur Madhmeshwar Express Canal and the said matter was listed as Case No. 5/2018.



2. The Petitioners have submitted that the five dams near Nashik city viz. Gangapur, Kashyapi, Gautami, Waldevi, and Darana have more NI water reservations than their actual use. However, the actual use is within the limits prescribed in the Water Resources Department (WRD) Government Resolution (GR) dated 17/11/2016. Bham, Bhavali, Waki and Mukane dams are constructed for irrigation under the Nandur-Madhmeshwar Express Canal scheme for the drought-prone areas of Vaijapur and Gangapur Talukas of Chhatrapati Sambhajnagar District. The NI reservations on these dams exceed the limitation of Sectoral allocation. Dams constructed in Gangapur and Darna Complexes supply water near Nashik and around areas having heavy rainfall zones.

3. The Petitioners further submitted that no water from dams constructed under the Nandur-Madhmeshwar Express Canal scheme should be diverted to any other purpose and not to deprive people from irrigation and drinking water in the drought-prone area of Marathwada region. Also, there would be a loss of capital investment made for developing the command area of the Nandur-Madhmeshwar Express Canal scheme. The State Government decided to divert water from the Bhavali project to 97 villages in Shahapur Taluka of Thane District which comes under heavy rainfall zone of Konkan region. This decision requires reconsideration. Therefore, the Petitioners prayed for the following reliefs in their Petition;

1. *The Government of Maharashtra and or Chief Engineer, North Maharashtra Region, Nashik may not kindly be allowed to transfer the water for Non-irrigation reservation from Gangapur and Darna complexes to the group of four dams constructed for supplying water through Nandur Madhmeshwar Express Canal for drought prone area of Vaijapur and Gangapur talukas of Marathawada Region.*
2. *No reservation may be entertained directly or indirectly on four dams as the water of 317.00 Mcum is to be made available at canal head of Nandur Madhmeshwar weir.*
3. *The Government of Maharashtra or any other functionary agency be restrained from reserving any quantum of water for Non-Irrigation use from the four dams under Nandur Madhmeshwar Canal Project*



to Nashik city, Shahapur and adjoining villages or any other city/area outside the Gangapur and Vaijapur talukas of Aurangabad District.

- 4. The efforts are also required to review the reservation of water given to Shahapur area for 97 villages with suitable alternative of other dams in Konkan region.*
 - 5. Any other appropriate relief/directions as may be found suitable in this case may kindly be issued in the interest of justice & oblige.*
4. The Authority conducted the First hearing in the matter on 25/09/2018 and directed the Respondent to file an Affidavit in reply and explain the basis as to how the Bhavali Project was selected as a water supply source for 97 villages in Shahapur Taluka. The Authority also directed that Chief Engineer, Maharashtra Jeevan Pradhikaran (MJP) should be made the party Respondent in the matter. Executive Engineer, Bhatsa Dam Management Division, Bhatsanagar vide letter dated 03/10/2018 submitted the relevant documents viz. WRD GR dated 23/03/2018 & 17/11/2016, Detailed Project Report of Regional Water Grid Scheme in Shahapur Taluka, Thane. Further, the Superintending Engineer, Command Area Development Authority, Nashik, vide letter dated 08/10/2018 submitted relevant correspondence about said Regional Water Grid Scheme.
5. As per the directions of the Authority, Respondent No. 1 - Principal Secretary, WRD, Mumbai filed an Affidavit in reply dated 25/10/2018 and submitted that Darna dam, part of Darna Complex (Darna, Waldevi, Mukane, Bhavali, Waki and Bham) has no projected provision for NI water use and Gangapur Dam, part of Gangapur Complex (Gangapur, Godavari and Kashyapi) has 2.83 Million Cubic Meters (Mcum) projected provision for NI water use. However, due to industrialisation and urbanization, NI demands on the above complex are considerably increased. As per Section 16A (1) of the MWRRA Act the State Government, vide WRD GR dated 17/11/2016 decided on Sectorial Allocation of irrigation projects for different categories of water use i.e. Drinking (15%), Industrial (10%) and Irrigation (75%). Respondent No. 2, vide Order dated 17/03/2018, decided equitable distribution of water



for NI among Darna and Gangapur Complex for irrigation Year 2017-18 only. Hence, it carries no significance at present.

6. Respondent No. 1 further submitted that the State Government sanctioned Bulk Water Entitlement to 97 villages in Shahapur Taluka from the Bhavali Dam initially for 4.55 Mcum vide WRD GR dated 29/03/2017 which was then revised to 12.69 Mcum vide WRD GR dated 23/03/2018. Total drinking water reservation of Bhavali Dam is 43.17% of its live storage. However, Bhavali Dam is part of Darna Complex and Nandur-Madhmeshwar Project. Total drinking water reservation of Nandur-Madhmeshwar Project is 13.33% of its live storage. It is accepted fact that Gangapur and Vaijapur Talukas of Aurangabad District of Marathwada region has lesser rainfall than Shahapur Taluka of Thane District of Konkan region. Water supply scheme for 97 villages in Shahapur Taluka was proposed by Thane Zilla Parishad. MJP studied the Technical and Economic viability of the scheme and identified Bhavali as source. Thereafter, as per the approval of cabinet sub-committee vide WRD GR dated 23/03/2018, 12.69 Mcum water was allotted from Bhavali Dam to water supply scheme for 97 villages in Shahapur Taluka. As per State Water Policy, 2003 drinking water has top most priority and as per Hon'ble High Court's Order dated 23/09/2016, there can be no reservation of water by a person or community or region, it is a public property. Hence, decision of water diversion for drinking purpose to any part of Region/State is legal.
7. As per the directions of the Authority, Respondent No. 3 - Executive Director, Konkan Irrigation Development Corporation, Thane filed an Affidavit in reply dated 29/10/2018 and submitted that the State Government vide WRD GR dated 23/03/2018 sanctioned revised Bulk Water Entitlement of 12.69 Mcum for a regional water supply scheme of 97 villages of Shahapur Taluka. The said scheme was proposed by Zilla Parishad, Thane and Technical & economic viability of said scheme was studied by MJP. Therefore, Respondent No. 3 has no role in proposing and sanctioning of said scheme. Respondent No. 2 - Executive Director, Godavari Marathwada Irrigation Development Corporation, Chhatrapati Sambhajanagar filed an Affidavit in reply dated 30/10/2018



reiterating the same contentions as submitted by Respondent No. 1 in an Affidavit in reply dated 25/10/2018.

8. The Authority conducted the Second hearing in the matter on 02/11/2018 and observed that water reservation for drinking water supply scheme of 97 villages in Shahapur Taluka from Bhavali dam is given by the Competent Authority. The source selection and identification is done by the Zilla Parishad, Thane without considering its consequences and without alternative study. The Shahapur Taluka is in Ulhas basin, which is categorized as abundant basin. As per the Integrated State Water Plan (ISWP), water availability in Ulhas basin per ha of CCA is about 10 times that of Upper Godavari sub-basin in which Bhavali dam is located. In this particular case, diversion of water from normal basin to abundant basin is being proposed. At the same time, as per the provision in ISWP, the State Government is parallelly planning to transfer huge quantum of water from Ulhas basin to Upper Godavari sub-basin to meet out its deficit. The transferring of water from normal basin to abundant basin looks very unusual. Therefore, the Authority directed that Chief Executive Officer, Zilla Parishad, Thane to be made party in the matter, alternative study done before finalizing the source, Respondent No. 3 shall file a affidavit on why water cannot be given to this scheme from existing ongoing proposed reservations and the State Government shall prepare policy guidelines for granting NI reservations.
9. Meanwhile, Shri. Rajendra Bhagwatrao Ghumare and 2 Ors through Adv. R. L. Kute filed a Petition dated 03/07/2019 before MWRRRA and it was listed as Case No. 14 of 2019. The Petitioners submitted that they are fully dependent on Darna Complex for their drinking and irrigation water requirement. The Petitioners resides in the rain shadow area and receives very less rainfall. Thus, the then British Government constructed Darna Dam in the Year 1916 and Gangapur Dam in the Year 1948. Godavari sub-basin is deficit sub-basin i.e. failing to provide adequate water for drinking and irrigation in the command areas of above dams. Shahapur Taluka of Thane District comes under Vaitarna and Ulhas sub-basin which receives heavy rainfall. A Report states that



about 80 Thousand Million Cubic feet (TMC) of water goes waste without utilisation into Arabian Sea and the same water can be diverted to deficit areas of sub-basins of Tapi, Godavari, Pravara and Mula.

10. The Petitioners further submitted that the Petitioners are facing acute drought situation since Year 2011-12. As per Hon'ble High Court's Order dated 23/09/2016 in PIL 173/2013, it was directed to divert excess water from Konkan area to Godavari Basin. State Government, vide WRD GR dated 29/03/2017 and 23/03/2018, sanctioned to export water from deficit Godavari sub-basin i.e. Bhavali Dam to abundant Vaitarna and Ulhas sub-basin covering Shahapur Taluka of Thane District. State Government issued the said WRD GR without application of mind and without considering alternate source. The prayers of the petitioners are as follows;

- A) *Petition may kindly be allowed.*
- B) *Quash and set aside the impugned decision GR dated 29/03/2017 & 23/03/2018 issued by the State Government i.e. Respondent No. 1 being illegal, arbitrary and violative of Article 14, 19(1)(g) & 21 of the Constitution of India and so also contrary to the provisions of MWRRRA Act for that purpose issue necessary order.*
- C) *Kindly restrain the respondents permanently from implementing the impugned decision / GR dated 29/03/2017 & 23/03/2018 issued by the State Government i.e. Respondent No. 1 for that purpose issue necessary orders.*
- D) *Direct the respondents to implement the GR for equally distributing the Non Irrigation Reservation on the 8 dams including Bhavali Dam as decided by the State Government / GMIDC and supply the water to the people from the eastern part of Nashik District and northern part of Ahmednagar District depending upon Godavari Right Bank Canal and for the purpose issue necessary orders.*
- E) *Pending hearing and final disposal of this Petition, impugned decision / GR dated 29/03/2017 & 23/03/2018 issued by the State Government i.e. Respondent No. 1 may kindly be stayed.*
- F) *Ad-interim reliefs in terms of prayer clause "E" may kindly be granted.*



G) Pass such other further orders as this Hon'ble Court may deem fit and proper in peculiar facts and circumstances of the case.

11. Shri. Rajendra Bhagwatrao Ghumare and 2 Ors through Adv. R. L. Kute also filed an Intervention Application dated 03/07/2019 in Case No. 05 of 2018 before MWRRA. Most of the contentions raised in this Intervention Application are similar to the contentions raised in their Petition under Case No. 14 of 2019. The Intervener has prayed for the following reliefs in their Petition;

- A) *Application may be kindly allowed.*
- B) *Permit the applicants to intervene the above Petition No. 5 of 2018 and direct the respondent No 4 and 5 to add the applicant as party respondents in above case.*
- C) *Any other just and equitable relief may be passed in favour of the applicants.*

12. As per the directions of the Authority given on 02/11/2018, Respondent No. 3 filed an Affidavit in reply dated 22/11/2019 and submitted that a joint meeting was conducted with Respondent Nos. 2, 4, 5 and 6. During the meeting, Respondent No. 6 declined to reduce their quota of water reserved in Upper Vaitarna Bhatsa, Middle Vaitarna and Tansa dam. Bhatsa dam is supplying water mainly to the Municipal Corporation of Greater Mumbai (MCGM) and there is no possibility of reserving water further for NI purposes from Bhatsa dam. The main constraint is providing water by gravity. As per the Chief Engineer, Maharashtra Jeevan Pradhikaran, Thane's Study Report regarding an alternate source for the said scheme, Bhavali Dam is the only technically and financially viable source. Further, it is not possible to supply water by gravity from WRD projects.

13. The Third Hearing in the matter was held on 26/11/2019 and the Authority directed that the Chief Engineer, MJP, Thane and Hydraulic Engineer, MCGM, Mumbai, should be party Respondents in the matter and they should file Affidavit in Reply. The Authority allowed the Intervention Application of Shri. Rajendra B. Ghumare, Nashik & 2 Others and Petition filed by Shri. Rajendra B. Ghumare, Nashik & 2



Others (Case No. 14/2019) is to be tagged with the present matter. The Authority also directed the Petitioners to file a Rejoinder to the Affidavit in Reply of Respondents No. 1 & 3.

14. As per the directions of the Authority, the Petitioners filed a Rejoinder Affidavit dated 02/12/2019 on the Respondent No. 3's Affidavit in Reply dated 22/11/2019. The Petitioner submitted that 220.82 Mcum water is reserved for irrigation in Bhatsa Dam and FRL is lower than the location of said 97 villages, i.e. water is to be lifted for 160 - 330 meters from Bhatsa Dam, which has to be accepted. Further, Para (e) of WRD GR dated 20/07/2019 clearly states that if the existing source is not available for NI use in an abundant basin, a new structure can be constructed rather than transferring water from a deficit, normal or drought-prone basin. Thus, a toposheet study and preliminary survey will have to be done to know the feasibility of schemes and to select proper sites in the nearby areas of Bhatsa or Vaitarna tributaries. It is necessary because Bhavali Dam is part of the Nandur Madhmeshwar Project and the proposed scheme will adversely affect the water used mainly for drought-prone areas of Aurangabad District. The economic proposal may be selected, as there is no scope for the transfer of water from Bhavali Dam to the abundant basin.
15. The Petitioners also filed an Affidavit in Reply dated 30/12/2019 on the Intervention Application. The Petitioners submitted that it was proposed to construct four dams, viz. Bham, Bhavali, Waki and Mukane to supply the water to 43860 Ha of land in Vaijapur and Gangapur Taluka by constructing Nandur Madhmeshwar Express Canal. No water is proposed from these four dams for drinking or agriculture purposes from these four dams for drinking or agriculture purposes in the command of Darna Project. Interveners are beneficiaries of the water of Darna Dam, but they are not entitled to claim any rights on the water of Bhavali Dam. Also, these four dams are not made for supplying water to the Darna Dam. Further, water use in the Marathwada region is highly deficit as against the Nashik region. Thus, water is to be given to the Marathwada region on priority.



16. As per the directions of the Authority, Respondent No. 6 - Hydraulic Engineer, MCGM, Mumbai filed an Affidavit in Reply dated 8/01/2020 and submitted that Chief Executive Officer, Zilla Parishad, Thane framed a proposal through consultants to feed the Tribal Settlements /villages in Shahapur situated at higher levels wherein Bhavali Dam was the source identified for the scheme. However as the Bhavali Dam falls in the Godavari Basin (deficit basin) a Petition has been filed with MWRRRA not to transfer of water from Godavari to Ulhas basin (surplus basin). Further, no quantity can be spared from useful contents of Upper Vaitarna allocated to MCGM. A review meeting in this matter was conducted on 14/11/2018 wherein alternate source and mandate regarding water transfer from Deficit basin to Surplus basin were discussed in detail. However, the Respondent took stand that the 12.00 Mcum of water from Upper Vaitarna can be considered on completion and commissioning of Gargai Project.
17. The Authority conducted the Fourth Hearing in the matter on 09/01/2020. The Authority observed that transferring water from the deficit river basin/sub-basin to the abundant river basin/sub-basin is not desirable. The planning of the proposed scheme is not consistent with the ISWP. As per ISWP, the Vaitarna basin is surplus, and at the same time, there is no provision of water transfer in ISWP from the Upper Godavari sub-basin to the Vaitarna sub-basin. ISWP also provides for future projects in the Vaitarna sub-basin. Thus, the proposed scheme is inconsistent with the provisions in ISWP. Transferring water from a deficit basin to a surplus basin, only on the ground that water supply by gravity is possible, is not a desirable proposal and will set an undesirable precedent. Therefore, Respondent No. 1 should review the matter in the light of the above facts.
18. As per the directions of the Authority, Respondent No. 4 - Chief Executive Officer, Zilla Parishad, Thane, filed an Affidavit on 10/01/2020 and submitted that the water supply scheme for 97 tribal villages in Shahapur Taluka was proposed by Zilla Parishad, Thane. Chief Engineer, MJP, Thane has accorded Technical Sanction to the said scheme and commented that Bhavali Dam is the most appropriate



source amongst alternatives, viz. Upper Vaitarna, Middle Vaitarna, Bhatsa, Tansa and Minor Irrigation Projects in the neighbourhood. The problem with other sources is are non-availability of water for the said scheme, extremely high lifts, and conveyance through forest land. The tribal villages are hardly equipped to take over and maintain the facility after completion. Thus, Bhavali Dam can only satisfy the water demand of the said scheme and provide a techno-economical viable solution. Gangapur and Vaijapur Talukas demand can be satisfied by the group of dams under consideration, and the reservation sanctioned in the Bhavali dam does not require it to be stopped.

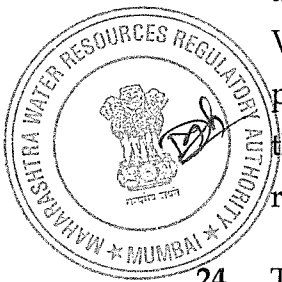
19. As per the directions of the Authority, Respondent No. 3, vide letter dated 05/03/2020, informed this Authority that a meeting was conducted on 12/02/2020 under the Chairmanship of Respondent No. 3 with all parties in the matter. During the meeting, it was decided that villages in the said water supply scheme are adjacent to the Godavari basin and are located at a higher level than other water sources in the Vaitarna and Ulhas basins. Thus, Bhavali dam is an inevitable source for the said scheme. It is proposed to divert 28.50 Mcum water from Upper Vaitarna Dam to Mukane Dam, which is part of the Nandur-Madhmeshwar Project.
20. The Authority scheduled the next hearing in the matter on 12/02/2020. However, due to the COVID-19 Pandemic and the end of tenure of the Chairperson and Members, the hearing could not be conducted in the matter.
21. After, State Government constituted a new Authority, the Fifth Hearing in the matter was held on 07/08/2024. During the hearing, the Authority directed Respondent No. 1 to file an Affidavit as per the directions during the hearing held on 09/01/2020. The Authority also directed Respondent Nos. 3 & 4 to file an Affidavit on the planning status and progress of the said water supply scheme within and the Petitioners may file a Rejoinder to the Respondent's reply.
22. As per the directions of the Authority, Respondent No. 3 filed an Affidavit in Reply dated 01/10/2024 and submitted that if the water



supply scheme from Upper Vaitarna, Bhatsa and other sources were considered, it would require huge lifting of water, and the operational cost including electricity charges would be burdensome for tribal run project. Thus, only Bhavali Dam is financially and technically viable. Although, Godavari basin is a deficit basin and the Vaitarna basin is an abundant basin, villages under the proposed water supply scheme in Shahapur Taluka are closer to the Godavari basin. Further, after completion of the Damanganga Pinjal River Link Project, approximately 200 Mcum water from Upper Vaitarna Dam is planned to be allocated to the Godavari basin. The State Government has proposed the release of 28.50 Mcum of water from Upper Vaitarna dam into Mukane Dam as part of the Nandur-Madhmeshwar Project. This will ensure no water shortage for villages in the Godavari basin. This scheme is compatible with the existing geographical structure and technically & economically viable.

23. Respondent No. 5 - Chief Engineer, MJP, Thane filed an Affidavit in Reply dated 01/10/2024 and submitted that 97 villages and 259 Padas of Shahapur Taluka were facing an acute water problem since last many years and hence to resolve the said problem permanently, a Regional Water Supply scheme was proposed by Zilla Parishad, Thane. As per the Water Supply and Sanitation Department GR dated 28/04/2022, it was decided that the said scheme should be implemented by Respondent No. 5. Thereafter, work on said scheme commenced, i.e. construction of water tanks, laying pipelines, and work on 32 storage reservoirs in progress. Thus, about 65% work of said scheme is completed to date, and Rs. 181.27 crore has been spent. Bhavali dam is an inevitable source for the said scheme, as those villages are located near the Godavari basin and are at a higher elevation compared to the other sources in the Vaitarna and Ulhas basins. Therefore, to find a permanent solution for permanent drinking water sources to them and to end water scarcity in this tribal area, the State Government has sanctioned 12.69 Mcum water reservation from Bhavali dam for this scheme.

24. The Authority conducted sixth Hearing in the matter on 09/10/2024 and directed that Respondent No. 1 should file an Affidavit on Prayer No. 1



to 3 in Case No. 5 of 2018 which shall include status of past and future NI permissions given from all four dams and status of diversion of 28.50 Mcum with copy of sanction letter from the Government, work program including status of statutory sanctions, tentative date of starting the work and completion of the same. Respondent No. 6 should file an Affidavit on diversion of water from Upper Vaitarna to Godavari basin, and the Petitioners should file a Rejoinder on the Respondent's Affidavit.

25. During the hearing, Respondent No. 4 - Chief Executive Officer, Zilla Parishad, Thane filed an Affidavit in reply dated 09/10/2024 and submitted that Shahapur Taluka of Thane District is a tribal Taluka with scattered tribal padas. The geography of Taluka is hilly and covered with basalt rock, having low/minimal water holding capacity. Though Shahapur Taluka has Bhatsa, Tansa, Modaksagar and Vaitarna dams, which supply water to Metropolitan Cities and there is no source of water for Shahapur Taluka's population. Shahapur Taluka is located at a high altitude, and it is not feasible to plan water supply from the said dams. Therefore, it is proposed to implement a Regional water supply scheme based on a grid system and gravity from the Bhavali dam. As per Para 2.3 of GR dated 17/11/2016, the State Government has the power to approve reservation proposals for drinking and industrial water use. State Government, vide GR dated 29/03/2017 and 23/03/2018, has sanctioned water reservation of 12.69 Mcum for 97 villages in Shahapur Taluka from Bhavali Dam. The Respondent No. 4 further submitted the details and decisions taken in the meeting dated 12/02/2020, conducted under the Chairmanship of Respondent No. 3. The State Government has directed to implement the said scheme through MJP and accordingly, work on said scheme has commenced.
26. As per the directions of the Authority, Respondent No. 6 filed an Additional Affidavit dated 08/11/2024 regarding diversion of water from Upper Vaitarna to Godavari Basin. The Respondent No. 6 submitted that out of 331.31 Mcum live storage of Upper Vaitarna, 198.85 Mcum of water is reserved for MCGM and out of 942 Mcum live storage of Bhatsa, 653.823 Mcum of water is reserved for MCGM. In



addition, as per the request of MCGM, the State Government releases water reserved from the carryover stock. Last year, MCGM requested the State Government to release carryover stock of 91.13 Mcum from Vaitarna and 130.00 Mcum from Bhatsa. Hence, MCGM's available stock is in deficit against the required demand and therefore, does not agree to the diversion of 28.50 Mcum water from Vaitarna Dam.

27. As per the directions of the Authority, Respondent No. 1 - 3 filed an Affidavit in Reply dated 17/12/2024 and submitted that the then Chief Minister in the Year 2003, took decision to distribute equally NI reservations on completed dams in Darna and Gangapur Complexes. The same policy was adopted in the Year 2012. NI provisions are made for the Year as per Government directives and policy and hence, there is no need to take the decision on equal distribution of NI reservations on Darna and Gangapur Complexes in High Power Committee or any other committee. As per Section 16A (1) of MWRRA Act, State Government /decided Sectoral Allocation of irrigation projects vide GR dated 17/11/2016. State Government, vide letter dated 14/03/2012, has given permission to divert 28.50 Mcum water from Upper Vaitarna into Mukane and the Work Order was given on 24/06/2022. The proposals for diverting water from Konkan to Godavari basin are under process, which will compensate or offset Bhavali water utilisation of 12.69 Mcum sanctioned for 97 villages in Shahapur Taluka. The Respondent is reaffirming and reiterating the facts mentioned in the Affidavit filed by the Respondent No. 3 dated 29/10/2018 and 22/11/2019 and the minutes of the meeting was conducted on 12/02/2020 under the Chairmanship of Respondent No. 3.
28. The Authority conducted Seventh Hearing in the matter on 18/12/2024 and directed that the Petitioners should file an Affidavit regarding Jurisdiction of the Authority to hear the present Petition and The Respondent Nos. 1 - 3 should file an Affidavit regarding scheme-wise details of Non-Irrigations reservations given and proposed to give on four dams and status of each scheme, whether it is operational or non-operational as on today. Scope for the scheme if any for any alternative source of water if reservation is given from dams which are constructed



in particular for deficit areas. Accordingly, Respondent No 1 - 3 filed an Affidavit in Reply dated 30/01/2025 and submitted the documents in respect of NI Reservations given and proposed to give on Four Dams and some of each schemes where it is operational or not as on today.

29. The Authority conducted the Eighth and Final Hearing in the matter on 22/04/2025. During the hearing, Adv. Yashodeep Deshmukh submitted that the work order has been issued, and the work has already started for the diversion of water. However, there needs to be time-bound directions for the completion of several projects. Adv. Shakuntala Wadekar submitted that the work order for diversion of water from Upper Vaitarna to Mukane was given on 24/06/2022, and 40% of the work is completed to date. She further submitted that the said scheme will be completed by June 2026. Adv. Rupali Deshpande submitted that 70% work of a regional water supply scheme for 97 villages in Shahapur Taluka is completed, and 61% of the expenditure incurred till date. She further submitted that it is proposed to complete the scheme by March 2026, and there are no other difficulties.
30. During the Hearing, Adv. R. L. Kute submitted that as per Section 11 of the MWRRRA Act, the power to lay down criteria lies with this Authority, and River Basin Agencies cannot transfer water from one basin to another basin. State Government, vide GR dated 20/07/2019, framed the policy regarding the determination of source while sanctioning NI water reservations. He also submitted that the decision taken to allot water from Bhavali dam to 97 villages is itself illegal and therefore, it needs to be quashed and set aside.
31. On inquiry of the Authority, Officers of the Respondent No. 1 - 3 submitted that the Cabinet Sub-Committee sanctioned said NI reservation as per provisions of the MWRRRA Act, regarding Sectoral Allocation procedure, is followed as per the GR. The Authority directed to file written arguments or submissions in any and the Authority closed the matter for Order.
32. Accordingly, Shri. Shankar Nagre, vide letter dated 23/04/2025, filed his final say and submitted that without deducting any water from the NM



Express Canal in the scarcity area, the State Government may be asked to follow the causes of NI water use as per GR dated 20/07/2019. Shri. Rajendra B. Ghumare filed written arguments on 14/05/2025 and submitted that the State Government granted a reservation of 12.69 Mcum for 97 villages in Shahapur Taluka by a circular meeting. However, no such meeting was held, and hence GR dated 23/03/2018 is without jurisdiction and nullity. The State Government's Affidavit stated that on the directions of the Hon'ble Chief Minister, the said reservation was granted. However, this is the jurisdiction of the High Power Committee as per GR dated 17/11/2016. The approach of compensatory water of 28.50 Mcum with 12.69 Mcum water is contrary to ISWP. If said decision is not stopped, it will create further complications as other villages will also demand and thus no further reservations from any other dam from the Godavari basin to the Konkan basin.

OBSERVATIONS / FINDINGS OF THE AUTHORITY

33. This Authority, after giving due consideration to the pleadings, submissions and evidence on record has adjudicated issues and the findings of this Authority are as under:-

a) The present matter is about Sectoral Allocation of a Project. The relevant provisions in MWRRA Act are as follows;

...

"Section 2 (1) (u-1) - "sectoral allocation" means the allocation made in a water resources project by the State Government to the various Categories of Use;"

...

"Section 11(a) - to determine the criteria for the distribution of Entitlements by the River Basin Agencies, within each Category of Use, on such terms and conditions as may be prescribed, after sectoral allocation is made under section 16A;"

...



"Section 16A (1) - Notwithstanding anything contained in section 11 or any Sectoral other provisions of this Act or in any other law for the time being in force, the State Government shall determine the sectoral allocation :

Provided that, sectoral allocation so determined shall ordinarily be reviewed at such intervals of not less than three years :

Provided further that, after publication of the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011, in the Official Gazette, the State Cabinet shall determine the sectoral allocation

(2) After the sectoral allocation, as provided in sub-section (1) is determined, the Authority shall determine the criteria for the distribution of Entitlements under clause (a) section 11."

...

- b) The relevant provision in MWRRA's "Criteria for Distribution of Surface Water Entitlements by River Basin Agencies for Domestic & Industrial Uses" are as follows;

...

6.2 (iii) The entitlement beyond sectoral allocation shall only be given after approval of the competent authority as declared by the Government from time to time. However, in such instances, DBWU shall mandatorily compensate for the extra water (over and above the sectoral allocation) by making it available for agricultural use at location mutually decided by DBWU and RBA. The treated water shall be of standards as stipulated by the Central Pollution Control Board (CPCB) vide letter dated April 21, 2015 and subsequent modifications that may be made by CPCB/MPCB from time to time. In case of dispute between RBA and the DBWU regarding the location at which the treated wastewater is to be made available, DBWU may refer the matter to the Authority and the decision of the Authority in this regard shall be final and binding on both parties.

...



- c) The Authority noted that water reservation for drinking water supply scheme of 97 villages in Shahapur Taluka from Bhavali dam is given by the Competent Authority.
- d) NI reservations are sanctioned by the State Government from time to time as per the state water policy 2019 wherein drinking water has given the top most priority.
- e) Further, WRD, vide GR dated 23/03/2018 has sanctioned water reservation to a gravity water supply scheme from Bhavali Dam, Taluka Igatpuri, District Nashik to 97 tribal villages and 259 Padas, Taluka Shahapur, District Thane. As per Section 16A of MWRRRA Act, Sectoral Allocation of water in water resources projects will be done by the State Government.
- f) As per WRD GR dated 17/11/2016, State Government has decided Sectoral Allocation for different category of water use of Water Resources Project. Also, as per Para 2.0 and 3.0 of said GR; Competent Authorities are prescribed who are empower to approve water reservations for drinking and industrial purpose.
- g) Cabinet Sub-Committee, as constituted under Para 3.0 of WRD GR dated 17/11/2016, has given approval for 12.69 Mcum water from Bhavali dam for domestic purpose for regional water supply scheme for 97 villages in Shahapur Taluka of Thane district vide WRD GR dated 23/03/2018. As per the said GR, this reservation has been approved through circulation on file by the competent Authority i.e. High Power Committee under the Chairmanship of the Minister, Water Resources Department.
- h) However, the Authority notes with concern that the planning of the water supply scheme is inconsistent with the ISWP. The scheme involves transfer of water from Bhavali Dam in the deficit Upper Godavari sub-basin to Shahapur Taluka in the abundant Ulhas sub-basin. The ISWP classifies Shahapur as a surplus area and also outlines projects to divert water from Ulhas to deficit basins. Thus, diversion in the opposite direction contradicts ISWP principles.
- i) It is also noted that the diversion of 28.50 Mcum of water from Upper Vaitarna (West Flowing Basin) to Mukane Dam (Godavari



Basin) has been approved to compensate for the diversion from Bhavali Dam of 12.69 Mcum water from Godavari Basin to West Flowing River Basin. This balancing mechanism appears aligned with the concept of basin balancing. However, it is crucial that this diversion is completed before any water is supplied from Bhavali to Shahapur. State Government has also submitted that the said 28.50 Mcum diversion scheme will be completed by March 2026.

- j) The Authority is of the view that while the competent authority has approved the current reservation, and the action is legally valid under Section 16A, the method of circular approval and the absence of alternative source assessments raise concerns about transparency, sustainability, and precedence.
- k) Additionally, the Authority reiterates that future NI water entitlements must be planned and approved strictly in accordance with the WRD GR dated 20/07/2019, which mandates that abundant basins must exhaust their local options before seeking water from deficit or normal basins.
- l) The compensatory scheme (Vaitarna to Mukane diversion) is projected for completion by March 2026, and its progress must be monitored to ensure that water balancing between basins is achieved in a timely and accountable manner.

ORDER

34. 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, this Authority, hereby orders as under:

- a) In accordance with Section 16A of the MWRRA Act, 2005, the power to determine Sectoral Allocation of water in water resource projects vests exclusively with the State Government. Accordingly, this Authority holds that it has no jurisdiction to issue any directions interfering with such Sectoral Allocation, as prayed for in Case No. 5 of 2018.



- b) In the exercise of its powers under Section 16A of the MWRRA Act, the State Government has issued WRD GRs dated 29/03/2017 and 23/03/2018. Therefore, this Authority cannot quash and set aside said GRs as prayed by the Petitioners in Case No. 14 of 2019.
- c) However, nevertheless, the Authority directs that the State Government shall, henceforth, strictly adhere to the provisions of the WRD GR dated 20/07/2019, which mandates the use of local sources in abundant basins and discourages diversion from deficit or normal basins for NI purposes unless no feasible alternative exists.
- d) The State Government should ensure that 12.69 Mcum water from the Bhavali Dam is diverted for the regional water supply scheme for 97 villages in Shahapur Taluka of Thane district only after 28.50 Mcum water from the Vaitarna Dam is diverted into Mukane Dam and also certified by the competent authority.
- e) The Petitions under Case No. 5 of 2018 and 14 of 2019, along with Intervention Application, are disposed off with no order as to the costs.

Delivered on July 10, 2025.

Sd/-

(Shri. Rajendra Mohite)
Member (WRE)

Sd/-

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




(Mallikarjun Dharne)
Secretary, MWRRRA