



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण Maharashtra Water Resources Regulatory Authority (MWRRA)

9th Floor, Centre-1, World Trade Centre, Cuffe Parade, Mumbai - 400005. Tel.: 2215 2019 Fax.: 2215 3765 E-mail: mwrta@mwrta.org

Case No. 4 of 2014

In the matter of Distribution /allocation of water
From Tembhu Lift Irrigation Scheme
for Khatav, Man & Koregaon Talukas

Dr. Dilip Yelgaonkar,
At & Post Mayani,
Tal. Khatav,
Dist. Satara.Petitioner

Shri. Prabhakar Gharge,
At & Post Paldshi,
Tal. Khatav,
Dist. Satara.Applicant

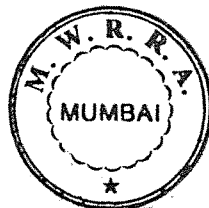
Versus

The Chief Secretary,
Government of Maharashtra,
Madam Kama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai - 400 032Respondent

The State of Maharashtra,
Through Principal Secretary (WRP&D),
Water Resources Department,
Mantralaya, Mumbai - 400 032. Respondent

The Executive Director,
Maharashtra Krishna Valley Development Corporation,
Sinchan Bhavan, Mangalwar Peth,
Barne Road, Pune - 411 011Respondent

The Chief Engineer,
Water Resources Department,
Maharashtra Krishna Valley Development Corporation,
Sinchan Bhavan, Mangalwar Peth,
Barne Road Pune - 411 011Respondent



CORAM : Shri. RAVI B. BUDHIRAJA, CHAIRMAN
Smt. CHITKALA ZUTSHI, MEMBER
Shri. S.V. SODAL, MEMBER

Date: 7th January 2015

ORDER

- 1.0 The Petitioner has made an application to the MWRRA on the basis of an order issued by the High Court of Bombay in PIL No.210 of 2009 dated 28.03.2014. The Petitioner has prayed in his petition of 12.06.2014, as under:
- a) To set aside the present Talukawise distribution of water from of the Tembhu Lift Irrigation Scheme (LIS) for irrigation.
 - b) To implement the report of the Superintending Engineer, Irrigation Projects and Water Resources Investigation (IP&WRI), Circle, Pune dated 12.06.2006 regarding the distribution / allocation of water to Khatav, Man and Koregaon Talukas in Satara district.
 - c) To redistribute and allocate water from the Tembhu Lift Irrigation Scheme to Satara, Solapur and Sangli districts and further direct the authorities to carry out a redistribution/allocation of water to draught prone area in Satara district namely Khatav, Man and Koregaon talukas as per the provisions in the State Water Policy.
 - d) To implement the drip and sprinkler irrigation system on the Tembhu Lift Irrigation Scheme and make available the saved water to Khatav, Man and Koregaon talukas of DPAP area of Satara district.



[Handwritten signature]
7/1

[Handwritten initials]

[Handwritten initials]

Hearings on the above matter were held in the Office of the MWRRA on the following dates:

- | | | |
|---------------|---------------|----------------|
| 1) 05.08.2014 | 2) 26.08.2014 | 3) 24.09.2014 |
| 4) 13.11.2014 | 5) 05.12.2014 | 6) 15.12.2014. |

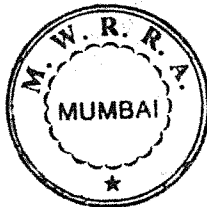
2.0 Pleadings of the Petitioner:

2.1 The Tembhu Lift Irrigation Scheme was initially administratively approved on 19.02.1996 for Rs. 1416.60 crore envisaging water use of 22.13 TMC and irrigation facility to about 79600 ha. The ICA of Satara district covered was only 600 ha while that of Sangli district was 59872 ha and that of Solapur district was 20000 ha. The project is located in Satara district and the canal passes through Khatav, Man and Koregaon talukas. However, more water has been given for irrigation to Sangli and Solapur districts while the Drought Prone Area Programme (DPAP) areas of Satara district are deprived of irrigation facility.

The Tembhu Lift Irrigation Scheme has been revised subsequently and the revised administrative approval has been accorded. However, no additional provision for irrigation facility to the DPAP areas of Khatav and Man talukas has been made by the Government in spite of the Petitioner's repeated requests to Government. The distribution /allocation of water made by the Government from Tembhu Lift Irrigation Scheme to Satara, Sangli and Solapur districts is not in accordance with the principles laid down in the State Water Policy. As per the relevant provision in the State Water Policy priority is to be given to DPAP areas. This has not been done by the Government.

2.2 The SE, IP & WRI Circle, Pune submitted a report on 12.06.2006 to Government for providing irrigation facility to Khatav and Man talukas of Satara disctriect from the contemplated Krishna-Bhima

2
7/11



2
7/11

2/11

Stabilization Project (KBSP). The Petitioner pleaded that water can also be made available to Khatav and Man talukas of Satara district from the additional allocation of KWDT-II Award and further requested to make water available to Satara district (Khatav, Man and Koregaon talukas) from the likely saving achieved by adopting drip or sprinkler system for the command of Tembhu.

- 2.3 The Petitioner pleaded that the MWRRA may use its power to give a direction to the Government in the present case on the basis of appropriate clauses in the amended MWRRA Act [Section 11(a) and Section 1(ii)] as these clauses will apply to irrigation projects which are to be completed after 17.09.2010 [and not to old and earlier irrigation projects]. Therefore, the Authority's jurisdiction is justified under the Act.

As per the SE, IP & WRI Circle, Pune, water can be made available to the proposed draught prone areas of Khatav, Man and Koregaon talukas and proposed to make such water available from Stage-III A by constructing a canal of 41 km length without disturbing the construction of the existing Tembhu Lift Irrigation Scheme.

3.0 Pleading of the Respondent viz. Government:

- 3.1 The Government has initially given administrative approval to the Tembhu Lift Irrigation Scheme on 19.02.1996 envisaging an irrigable area of 79600 hectares with annual water use of 22.13 TMC. Subsequently, this project was given first revised administrative approval on 22.1.2004. The districtwise proposed irrigation under the first RAA of Tembhu Lift Irrigation Scheme was as under -

- | | | |
|------------|----|----------|
| 1) Satara | .. | 600 ha |
| 2) Sangli | .. | 59872 ha |
| 3) Solapur | .. | 20000 ha |


2/11




2/11



The Tembhu Lift Irrigation Scheme involves the lifting of water from the Krishna River near village Tembhu, Taluka Karad, Dist. Satara in five stages and supplying water to the planned ICA spread over the three districts as mentioned above.

The head works for the Tembhu Lift Irrigation Scheme with construction of a barrage at Tembhu is by now complete and the other works are in progress.

- 3.2 The Government has planned to provide irrigation benefits to Khatav, Man and Koregaon talukas of Satara district through various other schemes which are as follows -

Sr. No.	Project Name	Taluka and Area in ha		
		Khatav	Man	Koregaon
1	Urmodi	9725	9725	-
2	Tarli	4438	4438	-
3	Jihe-Katapur LIS	11700	15800	-
4	Dhom/Kanher	-	-	20999
5	Andhali	-	1498	-
6	Wagana LIS	-	-	4200
7	Vasana LIS	-	-	4800
8	Yeralwadi Project	2651	-	-
9	Ner	2636	-	-
10	Ranand	-	1093	-
11	LIS Schemes 20 nos.	2141	1235	1388
	Total	33291	34689	31447
Gross Total 99427 ha				

- 3.3 There are 74 talukas in MKVDC jurisdiction. Out of which 46 Talukas are in the draught prone area. The District wise details of draught prone Talukas are as below -

[Handwritten signature]
7/11



[Handwritten signature]
7/11

[Handwritten signature]

Sr. No.	District	Total Talukas	D.P. Talukas	Non-D.P. Talukas
1	Sangli	10	06	04
2	Satara	11	05	06
3	Solapur	11	11	00
4	Kolhapur	12	00	12
5	Pune	14	09	05
6	Osmanabad	08	08	00
7	Beed	02	02	00
8	Ahmednagar	06	05	01
	Total	74	46	28

However, due to limitations of water availability in Krishna basin as per KWDT-I Award, it is not possible to provide irrigation facility to the entire area of these talukas.

- 3.4 Initially, administrative approval to the Tembhu Lift Irrigation Scheme was given in 1996, that is prior to the issuance of the State Water Policy by the Government in the year 2003. However, due to the geographical and topographical constraints and limitations of water availability as per KWDT Award, there were limitations of supplying water as per the needs in the DP area in the Krishna basin. The entire command of the Tembhu Lift Irrigation Scheme is the draught prone area of Sangli and Solapur districts, except 600 ha of ICA in Karad taluka of Satara district. The decision to include particular DPAP talukas in the command area appears to have been based on techno- economic considerations.
- 3.5 The SE, IP & WRI Circle, Pune in his report dated 12.6.2006 reported that Khatav, Man and Koregaon talukas were included in KBSP and hence these areas were not considered in the first administrative approval of the Tembhu Lift Irrigation Scheme. Now the final KWDT-II Award dated 29.10.2013 has allocated additional 78 TMC of water to

[Handwritten signature]



[Handwritten signature]

[Handwritten signature]

Maharashtra (worked out on the basis of 65% dependable average water year) in the Krishna basin imposing the following conditions -

- a) Maharashtra shall not divert more than 92.5 TMC (including that allowed by KWDT-I and further 25 TMC now allocated) from the K-I Upper Krishna sub basin for Koyna Hydel Station for westward diversion.
- b) Maharashtra shall not utilize the water allocated to it by this Tribunal in any non-scarcity/DPAP area either in an existing project or in future projects.
- c) In basin utilisation in any other project for DPAP area may be permissible with prior intimation in writing and written no objection of the Krishna Water Decision Implementation Board. It shall not involve any inter basin transfer of water.

3.6 As per KWDT-II Award Clause No.5, 8 and 23 sanctioned water planning initially under KWDT-I remains unchanged as the Tembhu project water planning is already incorporated in KWDT-I. Hence KWDT-II Award will have no effect on the current planning of Tembhu Lift Irrigation Scheme.

3.7 In the first KWDT-I Award, there was no restriction on the transfer of water and accordingly water planning of Tembhu Lift Irrigation Scheme is approved by the Central Water Commission of India, vide its letter dated 6.8.2009.

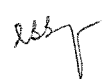
Subsequently, the Central Water Commission, GoI has accorded revised investment clearance on 4.3.2011 for Rs.3450.35 crore with BC ratio of 1.22.

3.8 The KWDT-II Award is yet to be notified by the Government of India. A SLP was filed in the Supreme Court by the State of Andhra Pradesh and Karnataka has demanded review of the Award. Therefore notification for KWDT-II has not yet been issued as per the directives of the Supreme Court.


2/11







4.0 MWRRA's Observations:

4.1 As regards to KBSP, it is clear from the above that no transfer of water from one sub-basin to another sub-basin is possible. In view of this, KBSP is not possible to implement in its present form as proposed by the SE, IP & WRI Circle, Pune in his report dated 12.6.2006.

4.2 As regards the jurisdiction of the MWRRA for resolving the Petitioner's issues as referred to in his pleading, our views are as follows -

a) The original MWRRA Act, 2005 has been amended on 22.04.2011.

The short title of this amended act reads as below:

"(1) This Act may be called the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011.

(2) This section shall be deemed to have come into force on the 17th September 2010 and sections 2 to 6 shall be deemed to have come into force on the 8th June 2005."

And Section 3(1)(a) of this Amended Act pertaining to the jurisdiction as pointed out by the Petitioner is as below :

"3. In section 11 of the principal Act, -

(1) For clause (a), the following clause shall be substituted, namely

-
"(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;"

[Handwritten signature]
7/11



[Handwritten signature]

[Handwritten signature]

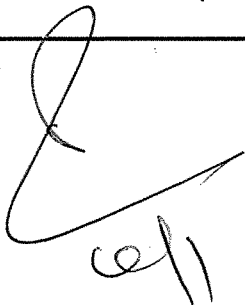
"16A. (1) Notwithstanding anything contained in section 11 or any other provisions of this Act or in any other law for the time being in force, the State Government shall determine the sectoral allocation:

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".

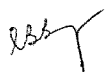
- b) From a plain reading of the amended provisions as mentioned above and the contention put forth in Para 4.1 above, it is amply clear that the Petitioner's request regarding the redistribution/reallocation of water that is a revision of the sectoral allocation from the Tembhu Lift Irrigation Scheme is within the purview of the State Cabinet and not within that of the MWRRA. It is also amply clear from Clause 1 (ii) that when this Act was amended in April 2011, the amended provisions are made applicable with effect from 8.6.2005. Hence the Petitioner's plea that the amended provisions are applicable to new projects coming after 17.9.2010 and that for the old projects like Tembhu Lift Irrigation Scheme provisions of the original MWRRA Act, 2005 are applicable is devoid of a legal basis.

Considering the response of the Government on the issues raised by the Petitioner and provisions in amended Act, it would not be proper for MWRRA or even within its authority, to redistribute/allocate water from the present Tembhu Lift Irrigation Scheme plan as prayed for by the Petitioner.









4.3 However, the Authority is proposing the adoption of the drip and sprinkler methods or other water saving technology, vide Clause 14(4) of MWRRA Act, 2005, for perennial crops on Tembhu LIS by a Notification, from June, 2017. There is likely to be a saving in water use of the Tembhu Lift Irrigation Scheme through the imposition of drip and sprinkler systems for perennial crops.

Considering the plea of the Petitioner for providing irrigation facility to drought prone area of Khatav, Man and Koregon talukas, the Government may consider his request from the above likely water saving that would result provided:

- (i) this is techno-economically feasible;
- (ii) the then prevalent Hon'ble Governor's directives for taking up new projects are observed; and
- (iii) the requirement of IRR as proposed by the SIT headed by Dr. Chitale is fulfilled.

4.4 However, the Authority has separately noted the recommendations made by the SIT headed by Dr. Chitale in regard to the Government lift irrigation schemes, which are as under :

“यापुढील काळात नव्याने उपसा सिंचन योजनांना मंजूरी देण्या अगोदर व्यावहारिक दृष्टीने या योजनांच्या वित्तीय संतुलनाची काटेकोरपणे तपासणी करणे आवश्यक ठरते. त्यासाठी पाटबंधारे प्रकल्पांच्या केवळ पारंपारिक लाभव्यय गुणोत्तरावर अवलंबून न राहता अंतर्गत आर्थिक परताव्याचा दरही (IRR) तपासला जाणे आवश्यक आहे. हा दर काढताना उपसा सिंचनासाठीच्या मोटारी, यांत्रिकी व विद्युत भागाचा घसारा व त्यापैकी काही भाग कालांतराने बदलावे लागतात त्याचाही विचार

2/11



2/11

2/11

करणे आवश्यक ठरते. त्यासाठी दुरुस्ती व ठराविक कालावधीनंतर नवीन पंप / त्याचे सुटे भाग, बदलण्याची तरतूद नियोजनात असणे आवश्यक आहे.

उपसा उंची ५० मीटरपेक्षा जास्त किंवा उद्धरण नलिकेची लांबी चार किमीपेक्षा जास्त किंवा सिंचन क्षेत्र २००० हेक्टरपेक्षा जास्त असल्यास किंवा उपसाचे टप्पे एकापेक्षा जास्त असल्यास त्या उपसा सिंचनाची आर्थिक सफलता अधिक काटेकोरपणे तपासली जावी. जुन्या उपसा सिंचन योजनांचे या दृष्टीने पुनर्विलोकन करावे. यासाठी विवरणपत्र क्र. ७ मध्ये नमूद केलेले तत्व अमलात आणावे."

The Authority feels that a review as proposed by the SIT for old lift irrigation schemes higher than 50 m be taken up and completed by Government within three months of the receipt of this order, on the basis of the principles laid down therein and its finding be submitted to this Authority. Until such time, it is felt that no fresh commitments for lifts of more than 50 m be entered into.

Sd/-

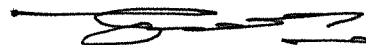
(Ravi B. Budhiraja)
Chairman

Sd/-

(Chitkala Zutshi)
Member (W.R. Economy)

Sd/-

(S.V. Sodal)
Member (W.R. Engineering)



(Dr. Suresh Kulkarni)
Secretary

