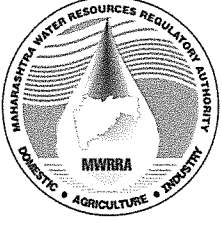




सत्यमेव जयते



महाराष्ट्र जलसंपत्ती नियमन प्राधिकरण Maharashtra Water Resources Regulatory Authority

ORDER No. 05 /2018

In the matter of

Fixation of tariff for contaminated water supplied to MAHAGENCO for
Nashik Thermal Power Plant, Eklahare

Case No. 1 /2018

Chief Engineer (O & M), Nashik Thermal Power Station
MAHAGENCO, Eklahare, Nashik RoadPetitioner

Vs

Secretary (WRM & CAD), Water Resources Department,
Mantralaya, Mumbai & Others.....Respondent No.1

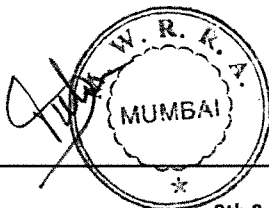
Chief Engineer, Water Resources Department
SinchanBhavan, Trimbak Road, Nashik.....Respondent No.2

Superintending Engineer, Command Area Development
Authority, Water Resources Department, Nashik
.....Respondent No.3

Executive Engineer, Water Resources Department,
Nashik Irrigation Division, Trimbak Road, NashikRespondent No.4

Coram: Shri. K. P. Bakshi, Chairman
Shri. V. M. Kulkarni, Member (WR.Engg.)
Shri. Vinod J. Tiwari Member (Law)

Date: March 26th 2018



BRIEF FACTS OF THE CASE

1. The present Petition for fixation of tariff parity for lifting contaminated water was filed by M/s. Nashik Thermal Power Station ("NTPS" for short), Eklahare, Nashik, a unit of Maharashtra State Power Generation Company Ltd. ("MAHAGENCO" for short) on 23/01/2018.
2. It is the fact that MAHAGENCO has established NTPS near Eklahare, Nashik Road, District Nashik with installed capacity of 2 X 140 MW (Stage I) and 3 X 210 MW (Stage II). The Respondent No.1, Water Resources Department ("WRD" for short) through the Respondent No.2 to 4, has allocated 1200 MCFT water from Gangapur dam for the NTPS. NTPS has constructed a barrage across Godavari near Eklahare with impounding capacity of 69 MCFT to ease the lifting. According to the Petitioner, sewage water of Nashik Municipal Corporation ("NMC" for short) area is being discharged into the river Godavari. The water reaching barrage is, therefore, contaminated, as claimed in the Petition.
3. The present Petition is based upon Authority's earlier order issued on October 13, 2017 in Case No. 8 of 2016 in respect of Petition submitted M/s RattanIndia Nashik Power Ltd. ("RNPL" for short) which is lifting water from the same Eklahare barrage. By the said order, the Authority has fixed the tariff for RNPL as Rs.48 per 10,000 liters by granting 25% concession in the basic rate indicated in the G.R. of WRD No. 2010/407/10 issued on June 29, 2011. The Petitioner in the present Petition has claimed that as RNPL and the Petitioner are lifting water from the same source, the parity of the tariff be maintained.
4. The prayers of the Petitioner are as follows;
 - (i) *Fix up the water tariff parity for lifting water by RNPL and NTPS from one source and apply the revised tariff fixed by this Hon'ble Authority (MWRRA) as per Order No. 12 /2017 dated 13th October 2017 and grant 25% concession in water tariff to MAHAGENCO NTPS, Eklahare for use of contaminated*



Godavari River water lifted from Eklahare Barrage for Power Generation as in the case of RNPL.

- (ii) *Fix up the tariff for contaminated water that is to be charged by WRD to MAHAGENCO, NTPS, Eklahare with retrospective effect.*
- (iii) *Any other relief which this Hon'ble Authority deems fit in the interest of justice.*

RESPONSE FILED BY THE RESPONDENTS

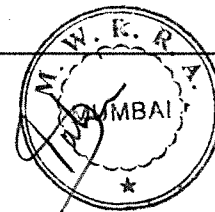
5. Respondent No.3 in written reply submitted that the agreement between MAHAGENCO and WRD has already expired on October 31, 2016. As such there is no valid agreement as of now. Moreover, the MAHAGENCO is defaulter as it has not paid the water charges for the water supplied. He brought out the distinction between water allocations to RNPL which is a treated sewage released from STP of NMC and NTPS which is fresh water from Gangapur reservoir. Moreover, NTPS draws water from 539.65 m level at Eklahare whereas RNPL can draw at 544.65 m level. The Respondent No.3 raised an objection on the maintainability of the present Petition as in light of the provisions contented in Section 11 (2)(d) of the MWRRA (Conduct of Business) Regulations, 2013 ("the Regulations" for short) as the Petitioner is not eligible to prosecute the present Petition because of the fact that no agreement is in existence .

PROVISIONS IN MWRRA REGULATIONS

6. The provisions in Regulation 11 (2) of the MWRRA (Conduct of Business) Regulations, 2013 ("the Regulations" for short) read as:+

11 (2) *The following categories of Bulk Water Users only are eligible to petition the Authority :-*

- (a) *Water User Associations at minor level, distributary level, canal level, project level, natural flow system ;*
- (b) *Domestic Water User Utilities such as the Maharashtra Jivan Pradhikaran, Maharashtra Industrial Development Corporation, Municipal Corporations, Urban Local Bodies, Gram Panchayats ;*
- (c) *Industrial Users such as Maharashtra Industrial Development Corporation, privately owned industrial estates ;*



(d) Other individual Bulk Water users having an agreement with the Water Resource Department ;

(e) Any registered organisation representing officially the interests of any of the above.

HEARING ON MARCH 15, 2018

7. Accordingly, the Authority having given an opportunity of hearing to the parties, conducted the proceedings on March 15, 2018.

The following were present for the hearing;

Petitioner

1. Shri. M. W. Taide, Superintending Engineer, Nashik Thermal Power Station, Nashik.

Respondents

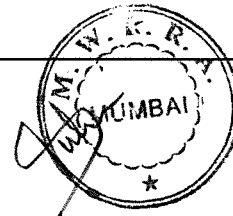
1. Shri. Rajesh More, Superintending Engineer, CADA, Nashik
2. Shri.R. S. Shinde, Executive Engineer, Nashik Irrigation Division, Nashik
3. Smt. V. R. Kurane, Under Secretary, Water Resource Department, Mantralaya, Mumbai.

8. The Authority invited the attention of the Petitioner towards the provisions in Regulation 11 (2) of the Regulations and the Petitioner was given an opportunity to prove its eligibility to file and prosecute the present Petition, in light of the fact that no valid Agreement is in existence as on date and as such the Petitioner was asked to prove its *locus standi*.

ORDER

Having heard the Parties, the Authority passed following Order:

(a) The maintainability of the present Petition is governed by the Regulations. The Petitioner could not establish its *locus standi* even after giving an opportunity. On the contrary the Petitioner admitted the fact that the Agreement is lapsed on 31st October, 2016.



- (b) After scrutiny of the Petition as well as documents appended thereto and the response filed by Respondent No.3, the Authority having heard the parties, came to conclusion that the Petitioner is not eligible to file present petition before the Authority as per the specific provisions in the Regulation 11 (2) (d), as no agreement exists between the Petitioner and the Respondents as on the date of filing the present petition.
- (c) Hence, the Authority is of considered opinion that the present Petition cannot be entertained on ground of *locus standi* and same is deserved to be dismissed and disposed off.
- (d) Accordingly, it is ordered that the Petition is hereby dismissed and disposed off with a liberty to the Petitioner to file a fresh Petition with necessary testimonials in support of its *locus standi*.

With the above finding, the application stands disposed off.

Sd/-


(V. M. Kulkarni)
Member (WR. Engg.)

Sd/-

(V. J. Tiwari)
Member (Law)

Sd/-

(K. P. Bakshi)
Chairman


(Dr. S. A. Kulkarni)
Secretary

