



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

No. MWRRA/legal/2015/Case No 14 of 2015/705

Date: 26/11/2015

Case No. 14 of 2015

In The Matter of
Releasing Water into Ujjani Reservoir from upstream dams as per
MWRRA's Order dated 26/10/2015

Please find herewith a copy of MWRRA Order dated 26/11/2015 in the matter.

Encl : As above


(Dr. Suresh Kulkarni)
Secretary

Copy for information and necessary action to:

1. Secretary, (WRM & CAD) Water Resources Department, Madam Kama Marg, Hutatma Rajguru Chawk, Mantralaya, Mumbai - 400032.
2. Executive Director, Maharashtra Krishna Valley Development Corporation, Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune - 11.
3. Chief Engineer (WR), Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011.
4. Superintending Engineer, Pune Irrigation Circle, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011.
5. Divisional Commissioner, Council Hall, Camp, Opposite Poona Club, Camp, Pune - 411 001.
6. Collector, Vidhan Bhavan, New Building, Bund Garden, Pune - 411001.
7. Collector, Main Building, Siddheshwar Peth, Solapur - 413003.

8. Superintending Engineer and Administrator, Command Area Development Authority, Water Resources Department. Opp. Solapur Club, Solapur 413003.
9. Superintending Engineer, Pune Irrigation Circle, Sinchan Bhavan, Barne Road, Mangalwar Peth, Pune - 411 011.

Copy for information to:

1. Shri. Siddeshwar Dadasaheb Varade, Through Adv. Mahadev Choudhary, Agra Building, Room No.9, 1st Floor, 121 M.G.Road, Fort, Mumbai 400023.
2. Advocate S R Palande, Lawyers Chamber No A-1, District Court Campus, Shivajinagar, Pune 411005.
3. Shri. Baburao Pacharne, Member of Legislative Assembly, Shirur, Pune through Adv. Sachin Thorat



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MWRRA's Order dated 26/10/2015

Shri. Siddeshwar Dadasaheb Varade
Through Adv. Mahadev Choudhary,
Agra Building, Room No.9, 1st Floor,
121 M.G.Road, Fort, Mumbai 400023.

..... Petitioner

Versus

1. Secretary, (WRM & CAD) Water Resources Department, Madam Kama Marg, Hutatma Rajguru Chawk, Mantralaya, Mumbai - 400032.
2. Executive Director, Maharashtra Krishna Valley Development Corporation, Sinchan Bhavan, Barane Road, Mangalwar Peth, Pune - 11.
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10. Advocate S R Palande, Lawyers Chamber No A-1, District Court Campus, Shivajinagar, Pune 411005.
11. Shri. Baburao Pacharne, Member of Legislative Assembly, Shirur, Pune through Adv. Sachin Thorat

..... Respondents

ORDER

CORAM : Shri. RAVI B BUDHIRAJA (Chairman)
Smt. CHITKALA ZUTSHI, MEMBER (Economy)

Date: 26 November 2015

This is an application by Shri. Siddeshwar Dadasaheb Varade through Adv. Mahadev Choudhary, filed before us for directing the officers concerned to release water into the Ujjani Dam from upstream dams pursuant to an order dt. 26.10.2015 passed by this Authority in Case No. 5 & 6 of 2015.

1.0 In this said Order this Authority had directed that :-

- (a) *An approximate equitable distribution has to be resorted to in the sub-basin when the water storage in the terminal reservoir (in this case, the Ujjani reservoir) is less than 65 percent of the designed live storage. However, if the actual difference between the percentage of water in the live storage of upstream reservoirs and the lower reservoir is less than 15 percent, then it will not be useful to have any redistribution.*
- (b) *It will be logical to regulate the upper reservoirs as per the above guiding principles after taking a review of the storage position in the upstream complexes, storage in the Ujjani dam and after taking into account the likely effect of the return rainfall which normally occurs in the first fortnight of October. In this way, the equitable distribution of the available water among upstream and*



downstream reservoirs will be achieved by the end of October. However, to achieve an approximate equitable distribution of water even in the Kharif season, the possibility of the release of water from upstream projects may be explored every year between the 15 July and the 31 July for providing protective irrigation to Kharif crops in the command of the downstream Ujjani reservoir depending on the storage position in upstream reservoirs. However drinking water requirement upto 15 July of the subsequent year for the sub-basin as a whole is to be first ensured and if surplus water is available taking this into consideration then only the possibility of protective (one) kharif irrigation to both the upstream as well as the downstream reservoirs should be considered. This Kharif use shall be accounted for while deciding the equitable distribution of water in the month of October every year. The Kharif use in all projects in the sub-basin should be limited to 80% of planned use or less in a distressed condition. If, in exceptional circumstances, actual kharif use is more than the planned use, then the actual kharif use is to be taken into account while deciding equitable distribution. ED, MKVDC, Pune should ensure Kharif use is limited to 80% or less and keep a close vigil and watch during Kharif use on the all projects.

- (c) In case the storage position at the Ujjani project in the first fortnight of October is above or equal to 65% of the planned live storage then the question of releasing water from the upstream storages does not arise.
- (d) If any reservoir on the upstream side is short of water to meet its own drinking water need and committed industrial use, no release of water from that reservoir is to be made.
- (e) It must be ensured that there is no drawal of water from the dead storage for irrigation purpose from the Ujjani reservoir.
- (f) It should be ensured that needles of the K T weirs shall not obstruct the releases made under this Order. Operation of the pumps and its electric supply on the river and backwater portion of Ujjani should be stopped during the release period
- (g) The role of the canal advisory committee will begin at the project level after the reservoir operation has been completed. The share of water by the tail end users should be decided at the start of the Rabi season by conducting meetings of the Canal Advisory Committees and including representatives of the WUAs. Post season meetings also be conducted to review the performance i.e. the targets and the achievements. Minutes of the meetings of the pre and post season with the



WUAs be drawn up and kept on the Government Website with copies to the MWRRA and WUAs.

- (h) WUAs at the tail end of canal system should be assured of their due share of applicable entitlement by ensuring tail to head irrigation.
- (i) The Collector (Pune and Solapur), Municipal Commissioner (Pune, Pimpri-Chinchwad and Solapur), Superintendent of Police (Pune and Solapur), Chief Engineer, MAHADISCOM, Pune and Baramati shall assist ED MKVDC, Pune in implementation of this Order.
- (j) There must be an upper limit to the diversion of irrigation water to non-irrigation purposes. The restoration of the resulting curtailed irrigated area should be carried out by the Government in a time bound manner. Government should give a schedule for this to the MWRRA in 8 weeks from the date of this order.
- (k) Water Resource Department should supply water to all Municipal Corporations as per the approved norm of 150 liter per capita per day + 20% distribution system loss. The 20% cut is applied to this in a hydrological draught year.
- (l) 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.
- (m) It should be made obligatory for the Municipal Corporations to treat sewage and use treated water for non-irrigation purposes. Provision for this should be made in the agreement made with them. The WRD should insist on the Solapur Municipal Corporation using its sewage for industrial / thermal power use and curtail fresh water requirements from the Ujjani reservoir.
- (n) The lifting of water from the backwaters of any project has to be limited to the approved water use planning. Government has to exercise rigorous controls on the unauthorized pumping. Action taken to be reported to MWRRA.
- (o) During the period of floods, the normal reservoir operation will switch over to flood regulation.
- (p) On the upstream projects, the diversion of monsoon flows through canals, flood canals, rivers and streams for Kharif use outside the project command, or for filling farm ponds is to be allowed only after the Ujjani reservoir reaches its full designed capacity.



- (q) *In order to utilize the surface water efficiently along with groundwater conjunctive use with freedom in the cropping pattern, Government should delineate the Ujjani command within a year's time and promote the formation of WUAs under the MMISF Act, 2005, facilitating the allotment of a Water Quota to each WUA enabling them to plan the crops within the allotted Quota. As the MMISF Act has come into force in the year 2005 and delineation has not yet been done for the command of Ujjani, the Government could make use of the provision of Section 1 (3) of MMISF Act 2005 and give different dates for implementation of different provisions of the said Act. This will help in overcoming the budgetary constraints, if any, in the implementation of the rehabilitation work as per Section 22 (1) of MMISF Act 2005.*
- (r) *The Executive Director of the MKVDC, Pune, will be responsible for the operation of all upstream reservoirs every year for equitable distribution as per the guidelines stated in Para 5.2. The procedure laid down in Para 5.2.1 has to be repeated for equitable distribution every year.*
- (s) *The ED, MKVDC, Pune should take a review of the storage position of Ujjani reservoir and all upstream storages on the 15th October every year. Only in case of any difficulty in implementation during the Kharif season in the last fortnight of July or in October, he should approach the Authority for clarification directly within 2-3 days after the due date. In a year of hydrological draught, he should complete the exercise of equitable distribution by the end of October.*

It is the contention of the applicant that although the Order was passed on 26.10.2015 and the issue involved is "sensitive and serious and touch to the day to day life of common man", the Authorities "concerned for implementing the Order are not taking steps for compliance of this order".

2.0 It was noted that the respondent Adv. Palande, had approached this Authority on 4.11.2015 for a review of MWRRA's order of 26.10.2015. However, since the Respondent Adv. Palande had approached the Hon'ble High Court through Writ Petitions Nos. 11152 and 11165 of 2015, in this same matter, this Authority had taken the view that in the interest of judicial discipline and judicial propriety, it would not be appropriate to review the Order of 26.10.2015. Advocate Mahadev Choudhary also stated that the Hon'ble High Court has not granted any stay order in the Writ Petition Nos. 11152 and 11165 of 2015 and hence the order of the Authority should be



implemented forthwith. He stated that PIL No. 144 of 2015 is fixed for hearing in the Hon'ble High Court on 21.12.2015 and Writ Petition No. 11152 and 11165 on 30.11.2015.

3.0 Adv. Suresh Palande stated that the Hon'ble High Court had not rejected the stay; the stay was under the consideration of the Hon'ble High Court. He also stated that the demand for Rabi irrigation received by the department is only for 500 ha, while the water that has been ordered to be released is for irrigating over 1 lakh ha as per the approved plan.

4.0 Shri. D. D. Shinde Legal Advisor to MKVDC read out the extract from the judgment of Judges Shri. V.M. Kanade & Dr. Shalini Phansalkar-Joshi of 3.9.2015 in PIL No.144 No. of 2015. He quoted from the Order of Hon'ble High Court which had stated in Para 5 that :-

"We direct respondents to inform us whether there is contingency plan prepared by the Water Resources Regulatory Authority to meet the situation where there is possibility of drought being declared in Solapur District and other parts of Maharashtra, and we would also like to know what steps the Water Resource Regulatory Authority has taken to ensure that water from other sources such as underground water can be tapped and utilized in the event drought like situation is created and if there are no rains in the month of September and part of October, 2015. Taking into consideration the urgency in the matter, we direct the respondents to furnish complete information which has been asked by us within a couple of days"

5.0 Advocate Shri. D. D. Shinde, also quoted from Section 26 of the MWRRRA's Act, according to which *"Whoever fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to six months or with fine, which may extend to ten times of the annual water charges or, with both in respect of each offence"*.

6.0 Adv. Shri. D. D. Shinde, stated that there was no failure on the part of any Authority to comply with the Order of the MWRRRA. According to him

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the officers of the MKVDC are eager to implement the Order of the MWRRA. Also the Collector, Pune, stated during the hearing that he had taken a meeting in his office to discuss the smooth implementation of the Order of the Authority. The officers of the WRD, Maharashtra State Electricity Distribution Co.Ltd, the Superintendent of Police, Pune, officers of Tata Power Co. and others were all present. In this meeting the Superintending Engineer, Pune Irrigation Circle, stated that he had started the implementation of the Order. The gateways of 50 K.T. Weirs would have to be removed. There was a lot of opposition from local farmers and police protection was necessary. However, he said that Police protection was not immediately available. The Collector, Pune, stated that in view of Diwali festival, it was not possible to implement the order till 18th Nov, 2015, and he had reported accordingly. He was now gearing up the Dist. Administration to face the situation that would arise when water from upstream dams was released into Ujjani. Flying Squads had also been formed. He stated that the Hon'ble High Court was to hear the case on 30.11.2015.

7.0 The Executive Director, MKVDC, stated that there are 50 KT weirs on the river and that the gates of 42 KT weirs had been removed, the gates of only 8 K.T. weirs remain due to very stiff resistance of the farmers. The ED, MKVDC, also stated that this order of 26.10.2015 of the MWRRA was a landmark Order. He recommended that a study needed to be carried out for the Bhima Sub-basin on the lines of the study was needed to be carried out for the by the Mendhegiri Committee for Jayakwadi Reservoir.

8.0 Shri. Pachane, MLA stated that water from Chaskaman being released into Ujjani dam is a waste of water. Upstream areas will suffer if water is released and downstream areas will not be benefit much. He urged that the implementation of the MWRRA's Order of the 26.10.2015 should be stayed till the Hon'ble High Court hears the case.

9.0 We have carefully considered the arguments advanced before us by the parties.



Considering the prayer made by Petitioners for speedy implementation of MWRRA's Order dt. 26.10.2015 which is based on the provision of MWRRA's Act for "Equitable Distribution", we feel that this order needs to be implemented for giving benefits equitably to all users in the Bhima Sub-basin and for sharing the distress by all users in the Sub-basin. Hence MWRRA's Order dt. 26.10.2015 needs to be implemented at the earliest.

10.0 In the above background the following directions are given :-

- i) The Collector, Pune, should provide the Officers of the Water Resources Department with full protection for implementing the Order of the MWRRA dt. 26.10.2015 without further loss of time in order to minimize transmission losses and in order that the downstream farmers get water timely for one Rabi rotation.
- ii) Action under Section 26 of the MWRRA Act is not called for at the present moment.
- iii) The Officers of Water Resources Department should implement the Order dt. 26.10.2015 of the MWRRA at the earliest.

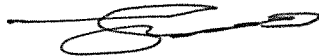
With the above findings and directions, the Miscellaneous Application stand disposed of.

Sd/-

(Chitkala Zutshi)
Member (Economy)

Sd/-

(Ravi B Budhiraja)
Chairman



(Dr. Suresh Kulkarni)
Secretary

