



Before the

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 Email: mwrra@mwrra.org

Case No.4 of 2013

Application No. 4 of 2013 before MWRRA in the matter of objection against the decision given by the District Collector Buldhana as per the order of the Hon'ble High Court of Mumbai, Nagpur bench in WP No. 2710/2013 filed by the Petitioners Shri Shaligram Patil & others

Shri Shaligram Patil & others.....Petitioners
Through their Adv. Avinash Kale,
52/D-1, Gokul Peth, Nagpur

Versus

Executive Engineer,
Buldhana Irrigation Division,
BuldhanaRespondent

Executive Engineer
(Water Supply & Sanitation Department),
Maharashtra Jeevan Pradhikarn ,
Division, YavatmalRespondent

Present :

Adv. Avinash Kalefor the Petitioners

Shri. K. B. Shinde,
Sub-Divisional Officer,
(Water Resources Department)
Irrigation Sub-Division,
Khamgaon, Dist. Buldhanafor the Respondent

Shri P. Y. Madankar,
Sub-Divisional Engineer,
(Water Supply & Sanitation Department)
MJP Sub-division, Akolafor the Respondent



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CORAM: RAVI B. BUDHIRAJA, CHAIRMAN &
CHITKALA ZUTSHI, MEMBER (ECONOMY),

DATE: 3rd JUNE 2013

ORDER

The Hon'ble High Court of Judicature at Mumbai, Nagpur Bench, Nagpur, in its order dated the 14th May 2013 directed the Dist. Collector, Buldhana in the matter of WP No. 2710 of 2013 filed by Shri Shaligram Patil & 32 others as under :

"Heard.

Issue notice before admission returnable on 11th June, 2013. In the meanwhile, the Petitioners are supposed to approach the Collector and the Collector is supposed to entertain the grievance of the Petitioners and try to take the best possible decision for the Petitioners. The Collector shall hear the Petitioners and try to solve the problem on or before 24th May 2013".

In pursuance of this High Court order, the District Collector, Buldhana directed the farmers and the concerned officers to pay a field visit to the site in question alongwith the Sub-Division Officer. (Revenue), Khamgaon, on behalf of Collector alongwith Senior Officers of Water Resources Department and Maharashtra Jeevan Pradikaran and the villagers and to submit a report on the ground situation. The decision of the Collector, Buldhana vide his office letter no. 612/2013 dated 24th May 2013 is as follows :-

" दिनांक २०.०५.२०१३ रोजी संयुक्त पाहणी करुन सारोळा गावाजवळील पाईपलाईन वरील वॉल्व मधून पाणी सोडल्यास शेतकऱ्यांच्या विहीरीपर्यंत पाणी कशा रितीने पोहचेल किंवा पाण्याचा नाश होईल याबाबत पडताळणी केली असता उपविभागीय अधिकारी (महसूल) खामगाव, कार्यकारी अभियंता, बुलढाणा पाटबंधारे विभाग, बुलढाणा, कार्यकारी अभियंता, महाराष्ट्र जीवन प्राधिकरण विभाग, यवतमाळ, तहसिलदार, खामगाव / नांदुरा, मुख्य अधिकारी, नगरपालिका खामगाव / नांदुरा यांनी दिलेला तपासणीचा अहवाल संदर्भीय पत्र क्र. २ अन्वये या कार्यालयास प्राप्त झाला आहे. सदर अहवालानुसार

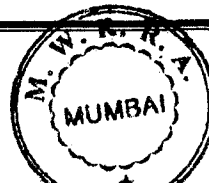


स्थळ पाहणी मध्ये वर्णा गावाच्या उत्तर व दक्षिण बाजूस असणाऱ्या वॉल्व मधून ज्या शेतकऱ्यांनी पाणी मागितलेले आहे अशा केळी उत्पादक शेतकऱ्यांची शेत जमीन वॉल्व पासून सुमारे २ किलो मी. अंतरावर आहे. त्यामुळे सदर वॉल्व व केळी उत्पादक शेतकऱ्यांची शेतजमीन या दरम्यान असणाऱ्या ज्ञानगंगा नदी पात्रातून पाणी सोडावे लागणार आहे. त्यामुळे मोठ्या प्रमाणात पाण्याचा नाश होण्याची शक्यता आहे.

सबब उपविभागीय अधिकारी, खामगाव यांच्या संदर्भीय संयुक्त पाहणी अहवालानुसार तसेच सद्यस्थितीत असलेली पाणी टंचाई विचारात घेता ज्ञानगंगा प्रकल्पातून अथवा खामगाव पाणी पुरवठा योजनेच्या वॉल्व मधून याचिकाकर्त्यांच्या मागणीनुसार सिंचनाकरिता पाणी सोडणे शक्य नाही.

सदर निर्णया विरुद्ध आपला काही आक्षेप असल्यास राज्य शासनानी या विषयी Maharashtra Water Resources Regulatory Authority स्थापन केली असून त्यांच्या याबाबत आपण दाद मागू शकता. पत्ता पुढील प्रमाणे - 9th Floor, Centre - 1, World Trade Centre, Cuffe Parade - Colaba, Mumbai - 400 005.”

- 2.0 On behalf of the Petitioners the Adv. Avinash Kale made a representation to the MWRRA on the 28th May 2013 against the order passed by the Collector on the 24th May 2013.
- 3.0 Accordingly the MWRRA issued a letter to the Petitioner and the Respondents directing them to be present for the hearing in the matter on the 1st June 2013 at 14.30 hrs.
- 4.0 During the hearing, the Adv. for the Petitioners explained his say. He stated that the Petitioners are farmers having their lands on the downstream side of the Dnyanganga dam and upto the pick-up weir in Buldhana district. These farmers have their own wells along the banks of the river. The well water is used for watering their banana

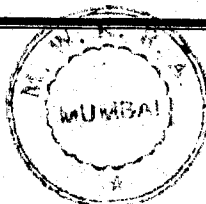


plantations. In the current year as there is a shortage of water in the Dnyanganga dam, the available water is fully reserved for drinking purposes, and the authorities are not releasing any water into the river for irrigation on the downstream side. Because of this, the farmers in this area are badly affected and their main banana crop is on the verge of ruin. He presented photographs to substantiate his contention. Normally when there is water in the river bed, these farmers get sufficient water in their wells through percolation. The farmers have constructed wells and invested money in planting bananas but now this year they are facing acute shortage of water in the wells. They have demanded that about 50000 Cum of water be released in 2 days into the Dnyanganga river from the one of the scour valves of the drinking water pipeline to Khamgaon. He stressed that their demand for 50000 Cum water is to be met not from the drinking water allocation, but from the surplus available in the storage to be released from the scour valve of drinking water pipeline. He also said that the farmers were ready to pay the charges on account of this. If they could not get water for their banana crop this year they will be put to a heavy financial loss.

The Adv. could not however point out the clause of the MWRRRA Act under which he is asking for relief against the Collector's order dated the 24th May 2013.

5.0 Shri Shinde, Sub-Divisional Officer, Irrigation sub-division, Khamgaon, explained that the Dnyanganga dam was constructed in 1972. The salient details of the storage are as below:- (Mm³)

Gross storage (design)	33.93
Storage on 15 th Oct. 2012	6.35 (18.71 %)
Storage on 1 st June 2013	2.79
Drinking water requirement for the balance period of 2 months for Khamgaon and Nandura	1.10
Evaporation for balance period	0.90



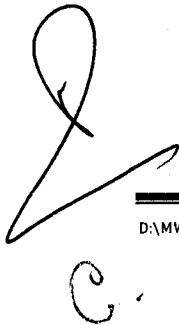
However since the dam is constructed about 40 years back there is a possibility of the accumulation of silt. Therefore the balance available storage might stand reduced further.

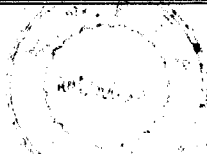
In a joint report submitted by Sub-Division Officer Khamgaon, to the Collector, Buldhana on 20/5/2013 it has been mentioned by the Executive Engineer, Buldhana Irrigation Division, Buldhana that there is about 0.29 Mm³ of silt in the reservoir.

Shri Shinde further stated that a meeting was held in the Collector's Office on 22/10/2012. It was decided in the meeting that due to the paucity of water available in the Dnyanganga dam, and also looking to the drinking water demand of Khamgaon, Nandura as also considering huge transmission losses in the river if water is released into the river, it was decided to reserve the entire remaining stock of water for Khamgaon and Nandura towns for drinking. In October 2012, 3.78 Mm³ was reserved for drinking water purposes and no provision for irrigation was made.

- 6.0 Shri P. Y. Madankar, Sub-Divisional Engineer, Maharashtra Jeevan Pradhikaran sub-division, Akola, submitted his explanation based on the joint report given by the S.D.O. Khamgaon on 20/5/2013 to the Colellector, Buldhana. He pointed out, vide para 3 of the joint report, as follows -

“खामगांव शहराची लोकसंख्या सन २०११ चे जनगणनेनुसार अंदाजे ९५००० असून आजच्या तारखेस ती ९९००० चे पुढे गेलेली आहे. शहरात ९५०० नळ जोडण्या असून सुमारे ४०० सार्वजनिक नळ जोडण्या आहेत. शहरात दररोज किमान ९४ लक्ष लि. पाणी पुरवावे लागते. सदर पाणी पुरवठा करण्यासाठी वामन नगर व घाटपुरी रोडे येथे अनुक्रमे १५ लाख लि. व १७.५० लाख लि. क्षमतेच्या टाक्या आहेत. सदर दोन्ही टाक्या भरण्यासाठी लोडशेडींगचा कालावधी वगळता





सुमारे ८ ते १० तास लागतात. तसेच तांत्रिक अडचणींमुळे शहरात साधारणतः ६ ते ७ दिवसानंतर पाणी पुरवठा होत आहे.

उपरोक्त परिस्थितीत मौजे वर्णा येथील केळी उत्पादक शेतकऱ्यांना वर्णा गावच्या उत्तरेस व दक्षिणेस असलेल्या वॉल्ड मधून पाणी सोडल्यास खामगांव शहराची पाणी पुरवठा योजना विस्कळीत होईल. व याच योजनेवर नांदुरा शहराचा पाणी पुरवठा अवलंबून असल्याने नांदुरा शहराचा पाणी पुरवठा देखील विस्कळीत होऊन तीव्र पाणी टंचाई निर्माण होईल. तसेच १५ ते २० दिवसानंतर देखील पाणी पुरवठा करता येईल किंवा नाही हे सांगता येत नाही. खामगांव शहरासाठी असलेल्या पाईपलाईनमधूनच २० लाख लि.प्रती दिवस याप्रमाणे नांदुरा शहरासाठी पाणी पुरवठा करावा लागतो आहे.

नांदुरा शहराची लोकसंख्या सन २०११ चे जनगणनेप्रमाणे ४२००० असून आज रोजी सुमारे ४५००० आहे. आज रोजी अस्तित्वात असलेल्या शासनाच्या नियमाप्रमाणे शहरात दर दिवशी ३० लक्ष लि. पाणी पुरवावे लागते. आज रोजी नांदुरा शहरात ४५०० नळ जोडण्या असून सार्वजनिक १० नळ जोडण्या आहेत. ज्ञानगंगा प्रकल्पावरील लोडशेडींग तसेच खामगांव शहराची गरज भागविल्यानंतर शिल्लक राहणाऱ्या कालावधीत नांदुरा शहरासाठी पाणी घ्यावे लागते. शहरात पाणी पुरवठा करण्यासाठी नांदुरा शहरातील अर्बन बँकेजवळ पाण्याची टाकी असून तिची साठवण क्षमता ९ लाख लिटर आहे. सदर टाकी भरण्यासाठी आज रोजी १२ तास लागतात. त्यामुळे शहरात ७ दिवसानंतर पाणी पुरवठा करण्यात येत आहे.

उपरोक्त परिस्थितीत मौजे वर्णा येथील केळी उत्पादक शेतकऱ्यांना वर्णा गावच्या उत्तर व दक्षिणेकडील वॉल्ड मधून पाणी सोडल्यास खामगांव शहराची पाणी पुरवठा योजना विस्कळीत होईल व याच योजनेवर नांदुरा शहराचा पाणी

पुरवठा अवलंबून असल्याने नांदुरा शहराचा पाणी पुरवठा देखील विस्कळीत होऊन तीव्र पाणी टंचाई निर्माण होईल. तसेच १५ ते २० दिवसानंतर पाणी पुरवठा करता येईल किंवा नाही हे सांगता येणार नाही.....”

He stated further as follows:-

वर्णा गावच्या उत्तर व दक्षिण बाजूस असणाऱ्या वॉल्ड मधून ज्या शेतकऱ्यांनी पाणी मागितलेले आहे, अशा केळी उत्पादक शेतकऱ्यांची शेतजमीन वॉल्ड पासून सुमारे दोन किलोमीटर अंतरामध्ये आहे. त्यामुळे सदर वॉल्डपासून केळी उत्पादक शेतकऱ्यांना पाणी दिल्यास नदी पात्रातून पाणी सोडावे लागणार आहे व मोठ्या प्रमाणात पाण्याचा नाश होण्याची शक्यता आहे.

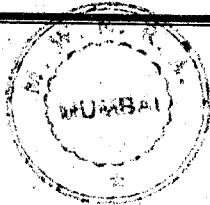
केळी हे व्यापारी पिक असून मोठ्या प्रमाणात पाण्याची आवश्यकता असणारे पिक आहे. पाण्याची कायमस्वरूपी उपलब्धता लक्षात घेऊनच संबंधीत शेतकऱ्यांनी केळी लागवड करणे आवश्यक होते. परंतु अशा उपलब्धतेची खात्री न करता केळी लागवड झाल्याचे निदर्शनास येते.

ज्ञानगंगा धरण ते जळका भडंग जलशुद्धीकरण केंद्र या २६ कि.मी. च्या पाईपलाईनमध्ये ७ गावे येतात. याचिकाकर्त्यांची विषयांकित मागणी मान्य झाल्यास यासर्वच गावांतून अशाचप्रकारे पाणी सोडण्यासाठी मागणी येण्याची शक्यता नाकारता येत नाही. यास्तव त्यांची विनंती मान्य करण्यात येऊ नये.

The Adv. for the Petitioners' replied that he is not demanding water out of the drinking water allocation of Khamgaon and Nandura but from the surplus available in the dam. He pleaded that the farmers' plea be considered on humanitarian grounds considering the likely financial loss they will suffer if they do not receive the water immediately.




- 7.0 In the light of the above, the following aspects need consideration:
- 7.1 In the present matter the Petitioners have not approached to this Authority under any provision in the MWRRA Act but have approached us as directed by the Collector. However the storage position on 15th Oct. 2012 in the Dnyanganga dam was about 18.71 % which is much less than 33 %. Therefore this case falls under the definition of scarcity as per rule 2 of MWRRA Act and attracts the provision under Section 11(c) of MWRRA Act. Hence this Authority has jurisdiction in the present case.
- 7.2 The Collector, Buldhana in his meeting on the 15th Oct. 2012 had reserved 3.78 Mm³ of water for drinking purpose exclusively for Khamgaon and Nandura Municipalities which have a combined population of about 1.4 lakh. After considering the joint report of the joint inspection dated 20/5/2013 of S.D.O. Khamgaon, Tahasildar Khamgaon, Chief Officers of Khamgaon & Nandura Municipalities, the Executive Engineer, MJP, Yavatmal, the Executive Engineer, Buldhana and villagers of the area, to Dnyanganga dam and the drinking water pipeline from dam to Khamgaon, and cultivable area of the Petitioners, the Collector had directed vide his order dated 24th May 2013 that it will not be possible to release water for irrigation as per the request of the Petitioners from the Dnyanganga dam or from the valves of the drinking water pipeline.
- 8.0 In view of the above analysis, the following directions are hereby given:
- 1) As per the State Water Policy-2003, drinking water has the first priority over irrigation use. Allowing the diversion of water for irrigation from the drinking water pipeline will violate the stipulated water use priority norms of the Policy. This is not desirable.
 - 2) Eventhough there is surplus water available in the Dnyanganga reservoir, the request of the Petitioners to release water for irrigation

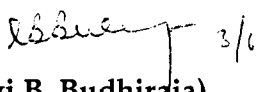



for 2 days through the scour valve of the drinking water pipeline will affect the present drinking water supply (to 1.4 lakh population of Khamgaon and Nandura towns together) frequency adversely i.e. presently from the supply interval of 6-7 days to the 15-20 days. This will be against the policy of first fulfilling the drinking water needs as best as possible within the current storage and distribution system. Besides, it may generate unrest and create law and order problem in the area.

- 3) It has been brought to our attention by the Respondent that if at all the Petitioners' request of village Varna is accepted of giving water for irrigation to banana crop, the possibility of similar demands from the other 6 villages along the pipeline cannot be ruled out.
- 4) Hence we can not accept the Petitioners' request to release water from the scour valve of the drinking water pipeline for irrigation and we agree with the views expressed by the Collector, Buldhana vide his order dated 24/5/2013.

With these findings and observations, the Petition stands disposed of.


3/6/2013
(Chitkala Zutshi)
Member (Economy)


3/6
(Ravi B. Budhiraja)
Chairman


(S.V. Sodal)
Secretary 3/6