

HELD AT _____ ON _____ TIME _____

Maharashtra Water Resources Regulatory Authority

**MINUTES OF THE 1/2017 MEETING HELD UNDER THE CHAIRMANSHIP OF
SHRI. K.P.BAKSHI, CHAIRMAN, MWRRRA ON 28TH AUGUST 2017
AT 1.00 P.M. IN THE CONFERENCE HALL OF MWRRRA, MUMBAI**

The following attended the meeting

Member(s)

1. Shri.V.M.Kulkarni, Member (WR.Engg.)

Others Present

2. Dr.S.A.Kulkarni, Secretary
3. Shri.S.D.Kulkarni, Director
4. Smt.Nasima M.Shaikh, Registrar
5. Shri.P.R.Deshpande, Dy. Director
6. Shri.A.R.Kalkhair, Asstt. Section Officer

Special Invitee (s)

Smt.Trupti H. Shewale, Company Secretary, MS Police Housing & Welfare Corporation Ltd.

At 1.00 p.m. the Chairman called the meeting to order and the agenda items as approved by the Chairman were placed for discussion.

Item No. 1: Adoption of G.R.s /Circulars issued by the Government of Maharashtra, Water Resources Department and other Line Departments from time to time related to MWRRRA activities

It was pointed out that MWRRRA is an independent Authority, which came into existence by virtue of Maharashtra Water Resources Regulatory Authority Act 2005, passed by the Legislature and promulgated by the Governor of Maharashtra. It is not an authority created directly by any cabinet decision or by issue of a GR.

Chairman explained that whenever an Act is promulgated, all functionaries subordinate to the Authority (in this case Hon. Governor of Maharashtra) who promulgated the Act, are deemed to have willingly and consciously accepted to forgo or relinquish their powers of giving day to day instructions to the Authority i.e MWRRRA, which endeavors to fulfill its mandate given in the Act. Although they might have recommended or contributed to the framing of or in promulgating the Act they willingly and consciously entrusted the entire responsibility to achieve its mandate. This conscious decision is of the functionaries like the Secretary(s), Hon.Minister(s), the Cabinet & the two Houses of Legislature.

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Hence, it must always be kept in mind that to fulfill its mandate, the Authority needs to work as an independent agency in the larger public interest.

Government Resolutions (GRs) of the State Government are issued by the Secretary(s) concerned, after obtaining approval from the respective Minister / Ministers, Hon. Chief Minister and / or the Cabinet. The Government Resolutions do not require the approval of Legislature and therefore they are subordinate to the provisions contained in any Act or rules framed under the Act. Same is the case with the Circulars issued by the Government which Act only as a set of guiding principles and are subordinate even to the Government Resolutions.

It was further clarified that all Government Resolutions or Circulars, by themselves, do not automatically become mandatory unless there is a specific mention in the GR / Circulars that they shall be implemented even by the Authorities / Commissions / Tribunals, / Boards etc.

In fact, even if there is a general mention in the GRs and / or Circulars so issued, without quoting the relevant Rule(s) or the relevant Section(s) of the Act, which empower the Government to issue such directives to any of the above entities, such GRs / Circulars cannot become mandatory and they will stand the test of legal scrutiny. Government Resolutions and Circulars will become mandatory, only if they mention that they are issued under the specific Section(s) or Clause(s) of the Act or under specific provision(s), given in the Rules framed under the Act. However, in most cases it is found that such Sections and Rules are not quoted and various departments simply mention that they are made applicable to the Authorities / Commissions / Tribunals, / Boards etc. Even though the factual position may be as above, it will be advisable to accept such GRs or Circulars which mention that they are mandatory for the respective independent Authorities under various nodal departments. So such GRs and Circulars should be invariably implemented by the above mentioned agencies, to avoid any future complications. It was their discussed at length and was proposed that those GRs / Circulars which just do not mention about their applicability to the independent Authorities / Commissions / Tribunals, / Boards etc. created by passage of various Acts, can either be implemented by the respective authorities in toto or can be accepted after making certain modifications to suit the mandate of the Authority provided in the Act or can even be kept aside. However, a conscious decision is needed for this, by passing a clear-cut Resolution keeping in mind the mandate given by the Act to such an independent Authority. So, henceforth all the relevant GRs and / or Circulars shall be placed before the Authority in the beginning of every month or as early as practicable and a clear decision should be sought from the authority. The decision of the Authority can be one of the following four:


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1. Completely accept, adopt & follow those relevant GRs / Circulars which mention that they are to be followed by such entities.
2. Completely accept, adopt & follow those relevant GRs / Circulars which do not mention anything about their applicability but the MWRRRA finds that it is consistent with the mandate of the Act or is useful to adopt in larger public interest.
3. Modify, those GRs/Circulars, where there is no such mention, in such a way that the Authority can use them for carrying out its mandate in an effective and speedy manner. Then issue Authority Resolution and follow them.
4. Decide not to accept, adopt or follow such GRs / Circulars where there is no such mention, giving detailed reasons.

In case the 3rd or 4th option is chosen, detailed reasons must be recorded by the Authority, as to why the Authority has decided to modify and accept or has decided to keep it aside.

Having sought the decision of the Authority on every GR / Circular every month, an appropriately worded Internal Order carrying the Authority no., date, subject etc. should be issued by passing an appropriate resolution and the same should be termed as "Authority Resolution No. or AR. No....." or as easily as practicable, Chairman further explained that, GRs which are accepted will become ARs with the same wordings, GRs which are modified and accepted will become ARs with modified version and GRs which are not accepted will not be referred to in the working of the Authority or will not be kept in any file pertaining to that subject. However, the Resolution passed by the Authority deciding to accept the original or modified GR or to reject such GRs / Circulars must always be kept in the relevant file.

Deliberating on a question as to whether a subject of the GR is relevant to the working of the Authority or not, it was decided that such a question shall be first referred to the Legal Advisor of the Authority or to the Member (Legal) of the Authority or even to Law & Judiciary Department of Government of Maharashtra. In case there is a difference of opinion between the Authority and the legal opinion sought up to the level of Law & Judiciary Department, then a reference shall be made to Advocate General of Maharashtra. Who is the highest Law Officer of the State. The opinion so obtained from A. G. shall then be deemed to be final. Having ascertained the relevance of a GR or of a Circular, the same can be placed before the Authority in the beginning of every month as mentioned above, for obtaining Resolution on the subject contained in that GR / Circular.

It was agreed that while considering to adopt, modify or not to adopt a GR or a Circular which has no mention about its applicability to such of the above entities

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in our case the MWRRRA, the MWRRRA shall keep the larger public interest and the mandate given to it by the parent Act, in mind.

In our case, since the MWRRRA is being required to function independently and since it is a creation of the Legislature and not a direct creation of the Cabinet / or of any Hon. Minister or any of the Secretaries, the MWRRRA needs to examine the consequences of implementation of such GRs / Circulars very carefully before taking any decision. MWRRRA should consider whether they serve the purpose and help the Authority in fulfilling its mandate speedily, fairly & in an absolutely transparent manner. The final decision of the MWRRRA on any such GR/ Circular should be communicated to the Government in writing at the end of every month's meeting on regular basis.

Authority further directed that a separate record should be maintained for such ARs just as one maintains the record in the case of companies registered with the "Registrar of Companies". While putting up noting(s) in files, ARs shall be referred. Irrelevant GRs / Circulars should not become a part of the file.

After detailed discussions and deliberations the following resolution was passed:

RESOLUTION No. 1

RESOLVED THAT, the draft policy "Issuing AR's" duly authenticated by the Chairman, MWRRRA for facilitating improved administration, effective decision making and transparent functioning towards fulfilling the mandate of MWRRRA is hereby approved unanimously.

RESOLVED FURTHER THAT, a separate register be maintained by the Registrar, MWRRRA carrying the Authority Resolution No., date, subject etc. concerning the adopted / modified/ rejected GRs/Circulars with reasons for modified/ rejection, if any.

RESOLVED FURTHER THAT, the final decision of the MWRRRA on every GR/Circular may be communicated in writing to the Government of Maharashtra on regular basis.

RESOLVED FURTHER THAT, The Registrar, MWRRRA is hereby authorized to do all such acts, deeds and things to give effect to this Resolution.

It was also unanimously **RESOLVED THAT**,

- (i) Authority Resolution will be issued in the same language as that of the GRs/ Circulars.

Item 2. Providing individual email IDs to Members, Officers and staff of MWRRRA

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In view of the increasing communication/ correspondence from the MWRRRA, the Authority decided to provide individual email ID to each Member. Officers and selected staff for office use. The new IDs will be created under domain <mwrrra.in>. MWRRRA has already invited quotations from three authorized ICT related agencies. After scrutiny of the quotations received, M/S Xtranet Co. India was found to be the lowest (L1). The agency was asked to further reduce its quote. The agency has informed the negotiated rates for the Online Plan -1 which works out be Rs.55,932 (inclusive of taxes) for 20 individuals for one year. This proposal was discussed by the Authority.

RESOLUTION No.2

UNANIMOUSLY RESOLVED THAT individual email-ids to Chairman, Members, Officers and staff of MWRRRA using domain **mwrrra.in** be created and allocated for office use.

Resolved further that the Secretary, MWRRRA is authorized to do all such acts, deeds and thing to give effect to these Resolution and within the limit incurred expenditure of Rs. 60,000 for the first year.

Item 3. Hiring of additional office space on 11th floor of the World Trade Centre (WTC)

The present office space on the 9th Floor of Centre-I of WTC was purchased considering the Authority comprising of Chairman and two members and support staff required for the mandates given in MWRRRA Act, 2005. As per the amendment to Section 3 of the MWRRRA Act 2005 vide notification dated 12th January 2017, the Authority will now have two more Members viz., (i) Member (Groundwater Management), and (ii) Member (Law). MWRRRA has also been designated as the State Groundwater Authority (SGA) and has been given the responsibility of implementing the Groundwater (Development and Management) Act 2009. The SGA will require substantial no of technical and support staff. Presently, of the total sanctioned staff strength of the MWRRRA, only 42 percent have been filled in. Process of filling up of the remaining posts is in progress. MWRRRA is also contemplating to establish an Innovative Water Technology Incubation Centre and possibly a Centre of excellence in Water Management in collaboration with Govt. of Australia. In view of the above, the present office space on the 9th floor will be highly inadequate to accommodate the increased staff and activities of MWRRRA. It was estimated that an additional area of 6000 sq. ft. will be required in the near future.

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On the 11th floor of WTC 2038 sq. ft. space is available for lease. As the space is nearer and convenient, Authority agreed to hire the available space for office purpose and register our demand total 6000 sq. ft. with the WTC for additional space whenever available.

RESOLUTION No.3**RESOLVED THAT**

- (1) The office space of 2038 sq. ft. located at the 11th floor be taken on lease/ rent and a demand for remaining 4000 sq.ft. space be registered with WTC.
- (2) Demand letter for additional budget required to cover expenses towards hiring of the additional space be sent to the WRD/ GoM.
- (3) The physical possession of the additional space shall be taken after seeking in principle consent of the Government to the proposal or after release of additional budget required for the same.

Item 4. To assign the work of reviewing MWRRRA Act & Rules thereunder and State Water Policy to KPMG Consulting firm appointed by the Authority

MWRRRA Act 2005 has been amended twice in 2011 and 2017, and the Rules of the said Act were repealed in 2013. Based on the experience of implementation of the MWRRRA Act during past 12 years, Authority felt the necessity of reviewing/ fine tuning some of the sections/ clauses of the said Act. Also in the absence of approved Rules of the said Act, it is becoming difficult to take appropriate decisions. The WRD has also requested the Authority to provide comments/ observations on the latest draft of the State Water Policy. In view of the urgency of the matter, Principal Secretary, WRD and Secretary CADA. WRD in the meeting dated July 6, 2017 has consented to seek consultancy of KPMG in shaping the policy and MWRRRA Act. Hence it was agreed to assign the above tasks to the Consulting Firm- KPMG.

RESOLUTION No.4**RESOLVED THAT**

Work of review of MWRRRA Act 2005 and subsequent amendments, various Rules under the said Act and State Water Policy be assigned to KPMG:

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RESOLVED FURTHER THAT,

From MWRRRA, the following professionals will be the Nodal Officers to provide the domain knowledge input and to interact with the KPMG.

The Nodal Officers shall work as a domain expert/ partner and shall be responsible for necessary domain inputs and all activities involved in the assignment regularly update the Authority progress and seek advice of Authority time to time.

- (i) Dr. S. A. Kulkarni, Secretary, for MWRRRA Act 2005
- (ii) Shri S D Kulkarni, Director, for State Water Policy
- (iii) Shri P R Deshpande, Dy. Director, for Rules under the MWRA Act 2005

Item 5. To decide duties and responsibilities of the six re-designated posts

As per provision in Clause 3(3) of MWRRRA (Recruitment and Conditions of Service of Employees) Regulation 2013, Authority can, without changing the pay-scales of sanctioned post, re-designate the post as per functional requirement. In view of the increasing legal and administrative matters being handled by this office, the Authority has re-designated the six-sanctioned posts as follows:

Sr. No.	Original Nomenclature	No. of posts	Changed Designation
1	Director	1	Registrar
2	Desk Officer	1	Administrative Officer
3	Dy. Director	1	Dy. Director (Law)
4	Personal Assistant	1	Personal Secy. to Chairman
5	Clerk-Assistant	1	Asst. Section Officer
6	Cashier	1	Clerk-Typist

RESOLUTION No.5

RESOLVED THAT the change in designation of the six posts (Director to Registrar), Desk Officer to Administrative Officer), (Dy. Director to Dy. Director, Law), (Personal Assistant to Personal Secretary to Chairman), (Clerk-Assistant to Assistant Section Officer), and (Cashier to Clerk-Typist) is hereby approved, Duties and Responsibilities of these posts be decided in the next meeting.

The meeting ended with thanks to the Chairman.



(Shri.K.P.Bakshi)
Chairman, MWRRRA

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