

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6580 OF 2011

Mandodari W/o. Sundardas Dhawale
and others

.. **Petitioners**

Versus

The State of Maharashtra,
Through Chief Secretary,
Irrigation Department,
Mantralaya, Mumbai and others

.. **Respondents**

Shri Pradip R. Patil, Senior Advocate for Petitioners.
Shri S. B. Pulkundwar, A. G. P. for Respondent No. 1.
Respondent No. 2 served.
Respondent No. 3 is deleted.
Shri Gulab B. Rajale, Advocate for Respondent No. 4.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.

DATE : 4TH AUGUST, 2016.

PER COURT :-

1. Mr. Patil, the learned counsel for the Petitioners strenuously submits that, the Petitioners are the agriculturist from Karjat Taluka. Their lands are under the command area of Kukdi Project, however, they are not given their share of water. The Petitioners are entitled to get their lands irrigated for a period of 8 months up to an area of 28,028 Hectors, however, only an area of 4,358 Hectors is provided with water. According to the learned counsel, the Petitioners are not receiving the water to irrigate their lands because of the discriminatory tactics followed by the Respondent. According to the learned counsel, because of such attitude of the State and its authorities the agriculturist are required to commit suicide. The Kukdi Project was initially contemplated in the year, 1966 for Karjat Taluka, till date the Karjat Taluka is not getting its share of water. There is no planning for distribution of the water as per each tahsil. The revised project reports are prepared in the year, 2007, in which Karjat Taluka was allocated water for an area

of 28,028 Hectors for 8 months in the year. Although, said planning was done but the same was never executed. According to the learned counsel, although the canal passed through the land of the Petitioners they are not getting even a drop of water. Right to water is fundamental right. Even, as per section 18-b of the Krishna Valley Development Corporation Act, 1996, it is the responsibility of the corporation to manage the irrigation projects and command area development and to help drip irrigation schemes through the Agriculture Department. The said corporation has also failed in its duty. This court can direct the Respondents to perform their statutory obligations. The learned counsel relies on the judgment of the Apex Court in a case of **Networking of Rivers, In Re, Writ Petitions (C) No. 512 of 2002 with No. 668 of 2002** reported in **(2012) 4 S. C. C. 51.**

2. Mr. Rajale, the learned counsel appearing for the Corporation and the learned A. G. P. submits that, corporation has taken steps, however, the allocation of funds is in the hands of the government. Up to March, 2016 total expenditure of Kukdi Project is Rs.1901.13 Crores. The budgetary provision for the year, 2016 – 2017 is only Rs. 25 Crores. According to the learned counsel, out of 69 ongoing projects 38 projects are planned for providing irrigation benefits to drought prone area. After providing for the requirement of special repairs, extension and improvement of old complete projects residual work etc. about Rs. 1250 crores are actually available for the 89 ongoing projects under jurisdiction of Maharashtra Krishna Valley Development Corporation and their balance cost as on 1.4.2014 is Rs.20,901 Crores. The State Government has appointed a committee and the committee has given emphasis on completion of projects and creation of additional storages and irrigation facilities, in the State in general with special emphasis for the project in backlog region and drought prone area. Efforts are

being made to utilize available resources up to its optimum and create maximum possible irrigation facilities.

3. This court while entertaining the Petition of the present nature would have its own limitation. The allocation of funds for a particular project would be within the domain of the experts and the planning at the government level. The courts cannot sit over the decisions taken by the experts as has been observed by the Apex Court in a case of **Networking of Rivers, In Re, Writ Petitions (C) No. 512 of 2002 with No. 668 of 2002** referred to supra. The court cannot take unto itself task of making a policy decision or planning or determine economic factors or other aspects such as, the manner of completion of project. The advancement in the work would depend upon the allocation of the funds and the same would be subject matter of budget within the domain of the State. The affidavit in reply filed by the Respondent states about the steps being taken, the amount allocated in the budget, the appointment of the experts committee and the advise given by the experts committee. We do appreciate the need of the Petitioners and their anxiety of receiving the irrigation facility but considering the affidavit filed by the Respondent and the limitation of this court it would not be possible in the writ jurisdiction to give directions to extend the facility as has been sought by the Petitioners. The Petitioners may represent with the State and may take up this issue with the State which would be appropriate forum for the Petitioners to approach.

4. With these observations the Writ Petition is disposed of. No costs.