

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5701 OF 2013

Mauli Paani Watap Sanstha,
Pimpri Shahali .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri H. D. Deshmukh, Advocate for the Petitioner.
Shri S. M. Ganachari, A.G.P. for the Respondent No. 1.
Shri Amit A. Yadkikar, Advocate for the Respondent No. 2..

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 11TH JULY, 2016.**

PER COURT :

. Mr. Deshmukh, the learned counsel for the petitioner submits that, the respondents are duty bound to maintain the free flow of irrigation water through the irrigation water canal constructed with an intention of benefiting the last farmer at the tail of the project by charging equitable and correct amount by maintaining record of irrigation water supplied as per the plan, if any prepared and ensure the supply of the said quantity of water without any discrimination. The learned counsel submits that, the petitioner sanstha is established in the year 2005 under the provisions of the Maharashtra Irrigation System Farmers

Management Act, 2005 (for short "Act of 2005") for the purpose of management of the distribution of irrigation water supply in the area of agricultural lands, more particularly in Pimpri Shahali village, Tq. Newasa. The learned counsel submits that, the petitioner sanstha has paid the charges for distribution of water collected from its members. However, the respondents do not release the required quota demanded. They are also not charged with equitable water bills. The water for the purpose of irrigation as required is never supplied. The learned counsel submits that, the petitioner had also approached the office of the Deputy Executive Engineer, Mula Irrigation Department, who had also directed the Deputy Engineer to submit the report and to implement the same, but to no avail.

2. The learned Assistant Government Pleader submits that, the person who has filed the petition on behalf of the Sanstha is not the Chairman. He has collected the amount from the members/farmers, but did not deposit the same. According to the learned A. G. P. even the said person is not the Chairman, as in the year 2013 fresh elections have taken place. The petitioner has an alternate remedy under the provisions of Sub Sec. 7 of Sec. 22 of the Act of 2005. The learned A. G. P. further submits that, the quota of the petitioner society was decided as 14.51 MCFT, still the respondent supplied 17.45 MCFT. water, which is 2.94 MCFT more than the sanctioned water quota to the

petitioner.

3. Mr. Deshmukh, the learned counsel submits that, the person whom the respondents term as Chairman has himself given a letter that under coercion letter was got signed from him. The petitioner has regularly deposited the amount of which receipts are issued and the petitioner is in possession of the receipts.

4. We have considered the submissions. The parties are not at *ad-idem* with regard to the status of the person filing petition and with regard to deposit of the amount by the petitioner society with the respondent, so also the quota of the water released. These are all disputed questions of facts. The authority is constituted under the statute for the purpose of redressal of such disputes.

5. In view of the aforesaid, it would be appropriate for the petitioner to approach Superintending Engineer and/or such competent authority under the provisions of Sec. 22(7) of the Act of 2005.

6. In case the competent authority receives an application from the petitioner, the competent authority shall consider the same on its own merits and as per the provisions of the Act of

2005 expeditiously and preferably within a period of six months from the date of receipt of the said application. All contentions of the petitioner and respondents are kept open. The writ petition is disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 16