

(2001) 03 BOM CK 0086
In the Bombay High Court
Case No : Writ Petition No. 964 of 1999

Marathwada Janta Vikas Parishad and Another	APPELLANT
Vs	
State of Maharashtra and Others	RESPONDENT

Date of Decision : 07-03-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226
States Reorganisation Act, 1956 — Section 108

Citation : (2002) 1 ALLMR 217 : (2001) 4 BomCR 126

Hon'ble Judges : B.P. Singh, C.J.; S. Radhakrishnan, J

Bench : Division Bench

Advocate : A.M. Gordey and N.W. Sambre, P.R. Deshmukh, K.G. Nawandar and S.P. Deshmukh, for the Appellant; C.J. Sawant, Sr. C., P. Janardhan, A.G. and E.P. Sawant, G.P. for Respondent No. 1, Pradeep Deshmukh for Respondent Nos. 2 and 3, J.T. Gilda, for the Respondent

Final Decision : Dismissed

Judgement

S. Radhakrishnan, J.—By this Public Interest Litigation, Marathwada Janta Vikas Parishad and a local agriculturist are challenging a major irrigation project undertaken by the State of Maharashtra and Vidarbha Irrigation Development Corporation known as "Khadakpurna Project" on the upstream of Purna river, mainly on the ground that this project would adversely affect the beneficiaries of the earlier Purna project. In this writ petition the State of Maharashtra through the Secretary, Irrigation Department, Union of India through the Secretary, Ministry of Water Resources, Central Water Commission through its Chairman ; Vidarbha Irrigation Development Corporation through its Executive Director and the Executive Engineer of the Vidarbha Irrigation Khadakpurna Project Division are arrayed as respondents.

2. The erstwhile Government of Hyderabad had undertaken the major irrigation cum power project known as "Purna Project" in the year 1955. This project was an Irrigation cum Hydro Power Project on River Purna which comprised of -

- a) a Storage Dam at Yeldari.
- b) a Hydro Power Project at the foot of Yeldari Dam with an installed generating capacity of 225 M.W. inclusive of standby.
- c) Diversion dam at Siddheshwar.
- e) 45 Kms. long left bank canal taking water from Siddheshwar Dam to irrigate an area of 57,988 Hectares of land through a well laid distributary system.

The Hydrology aspect of the aforesaid Purna Project is as under :

The Purna Project was planned and constructed to utilise almost the entire water available at 75% dependable yield except 3.5 TMC, which was reserved for upstream area.

3. The administrative approval to the Purna Project was given by the then Government of Hyderabad by its resolution dated 29th January, 1955. Upon formation of the State of Bombay after States Reorganization Act, 1956, the then Government of Bombay accorded its administrative approval to the Purna Project by resolution dated 28th January, 1957 and ultimately when the State of Maharashtra came into being, the Government of Maharashtra granted its administrative approval to the said project on 2nd May, 1961.

4. The work of Purna Project commenced in the year 1955 and ultimately the entire project was completed and fully implemented in the year 1968. As a result of this project especially due to Yeldari Power Project and Siddheshwar Dam, the farmers inhabiting the command area of Purna Project who were earlier dependent totally on seasonal rainfall, are able to get ample water supply because of this project. Due to this Purna Project the entire region has fully developed and the cropping pattern has changed. In many of the fields farmers have adopted the cultivation of crops like Banana, Potato, Sugarcane etc. A number of agro based industrial units including sugar factories have come up in the command area. The petitioners contend that the value of agricultural produce in that area is to the tune of Rs. 350 crores and that there is a power generation worth Rs. 15 crores at Yeldari Dam. The petitioners contend that due to this Purna Project the quality of life of the people inhabiting the command area of Purna Project have completely changed and that they have become prosperous.

5. After completion of the said Purna Project, certain disputes between the State of Andhra Pradesh and State of Maharashtra ensued especially with regard to distribution of matter (sic water) of interstate River Godavari. Finally the same were resolved in the sense that 100% water of Purna river upto Siddheshwar Dam could be fully utilised by the State of Maharashtra and the same was accepted by the Government of Andhra Pradesh. This is based on an award of the Tribunal constituted under the State Water Disputes Act, 1956. Under the said arrangement 100% water upto Siddheshwar Dam is to be utilised by the State of Maharashtra which covers utilisation of water under Purna Project. Only 3.5 TMC water was reserved for utilisation in the upstream area of Purna Project.

6. Subsequently the Government of Maharashtra realising the extremely drought prone condition in the adjacent Buldhana district planned the present Khadakpurna Project which is under challenge. This Khadakpurna Project received the administrative approval of the Government of Maharashtra in the year 1989. The said project was conceived in the year 1985. The said Khadakpurna Project consists of an irrigation dam across Purna River on the upstream and is located 81 Kms. away from the existing Purna Project. As per the Master Plan prepared by the Government of Maharashtra the estimated cost of Khadakpurna Project is around Rs. 180 crores. This project has been undertaken totally by the State of Maharashtra without any financial assistance from the Central Government.

7. According to the petitioners if the Khadakpurna Project is allowed to be fully constructed and completed it will adversely affect the existing Purna Project with regard to supply of water as well as generation of electrical energy. According to the petitioners the availability of water committed and guaranteed under Purna Project is to the tune of 28.30 TMC. However, this will be reduced to 13.09 TMC. According to petitioners the total yield of water available in Purna Project is 32.85 TMC. The water made available for Purna Project and utilised comes to 28.30 TMC. According to the Purna Project only 3.5 TMC could be made available for the project on the upstream of Purna River. Therefore the contention of the petitioners is that if the Khadakpurna Project is completed and implemented the availability of water would be reduced to 13.09 TMC in that area and the same will have a devastating effect inasmuch as it will reduce the irrigated area from 57,988 Hectares to 11,600 Hectares.

8. One of the main contentions of the petitioners is that prior approval and technical clearance of the Central Water Commission was not obtained by the State of Maharashtra as well as by the Vidarbha Irrigation Development Corporation which is developing the said Khadakpurna Project.

9. The main grounds of challenge to the Khadakpurna Project by the petitioners are that the farmers in Marathwada area would be badly affected inasmuch as the irrigation will be reduced and their socio-economic condition would also be affected, thereby violating their fundamental right under Article 21 of the Constitution of India. The petitioners apprehend that many sugar factories might have to be closed in view of lesser irrigation. This may also affect the financial commitment made to the World Bank and other financial institutions who had rendered assistance to the said Purna Project. The petitioners also contend that Khadakpurna Project was neither technically nor financially viable.

10. The petitioners also contend that the said Khadakpurna Project would be violative of provisions of sections 107 and 108(2) of the States Reorganization Act, 1956 that is to say this Khadakpurna Project would affect the existing Purna Project which will be varied and the benefits derived therefrom will be reduced. Under the aforesaid grounds the petitioners have challenged this Khadakpurna Project in this writ petition.

11. The State of Maharashtra has filed a reply through its Deputy Secretary, Irrigation Department opposing the writ petition. At the outset it is contended that the administrative approval for the said project was granted as far back as in 1989, whereas the project is being challenged in the year 1999. That this writ petition suffers from laches. In the said reply it is categorically mentioned that even after the Khadakpurna Project viz. at Yeldari Dam and Siddheshwar Project water availability will be 801.8 million cubic meters. The State of Maharashtra contends that by implementation of this Khadakpurna Project there will be no reduction of water as provided under the Purna Project for the Marathwada region. It is further submitted that the said Khadakpurna Project has been mainly planned to provide irrigation facility to the drought prone area of Buldhana District and this would in no way affect water supply in the Marathwada region. In the said reply the State of Maharashtra has also disputed strongly the cost ratio with regard to power supply. The State has strongly denied the petitioners' contention that the irrigated area will be reduced to 11,600 Hectares from 57,988 Hectares under the said project. Even the electricity and energy required for pumping water will be obtained from National Electricity grid and not from Yeldari project and Yeldari project will not be vitiated and the irrigation in the area in Purna Project will also not be reduced. As far as the clearance and approval from the Central Water Commission is concerned the State of Maharashtra had contended that all necessary details have been forwarded to the Central Water Commission and the same is under process. In any event the contention of the State is that such an approval and clearance by the Central Water Commission is not mandatory under any law.

12. The State of Maharashtra has strongly contended that the Khadakpurna Project has been technically and economically found to be viable and therefore the same has been approved by the Government of Maharashtra. The State of Maharashtra has also denied that there is any violation of sections 107 and 108 of the States Reorganization Act, 1956 and the same has no application in the instant case. The State of Maharashtra has pointed out that Vidarbha Irrigation Development Corporation has been constituted under the Vidarbha Irrigation Development Corporation Act, 1997 and now the entire Khadakpurna Project has been handed over and the same is being developed by the respondent No. 4 Corporation. The State of Maharashtra has further contended that the said project will in no way affect the quality of life in the Marathwada region, but the said project will be of great benefit to persons living in Buldhana district which is a highly drought prone area.

13. The aforesaid Vidarbha Irrigation Development Corporation has also filed a reply on behalf of the respondent Nos. 4 and 5 strongly opposing the petition. They have also reiterated that there will be no reduction of water in the Marathwada region and the Khadakpurna Project will be highly beneficial to Buldhana district. It is pointed out that the irrigation potentials in Parbhani and Nanded districts of Marathwada region in the year 1995 was 16.52% and 18.45% respectively compared to 7.20% of the Buldhana district. In the year

1999 irrigation potentials has gone up in Parbhani District upto 46.06% and 41.67% in Nanded District as against 12.27% in Buldhana District. In this context it is important to note that average irrigation potential in the entire State of Maharashtra is 37.58%. Therefore, the main contention of the respondents is that the irrigation potentialities of districts Parbhani and Nanded are much higher than the said State average and on the contrary the irrigation potential of Buldhana District is almost 1/4th of the existing irrigation potential of both the above districts. It is also pointed out that during the last 28 years, in about 17 years there has been a lot of spillage and overflow of water i.e. overflowing of water whereby the State of Andhra Pradesh has been benefiting. That is to say even after 100% of the water utilisation, the excess water, overflows into the State of Andhra Pradesh, which water, actually State of Maharashtra is entitled to fully utilise which is not being utilised for all these years. Therefore, by the Khadakpurna Project excess water available could be fully utilised and Buldhana District would be highly benefited. The contention of these respondents is that a highly drought prone area of Buldhana District will be benefited by this project and there will be no reduction of water in Marathwada region. In that behalf of said respondents have strongly relied on a report of the Chief Engineer, Irrigation Department, Aurangabad dated 10th November, 1993, wherein the figures indicate the availability of water would be 37.065 T.M.C. and whereas the water utilised was only 31.61 T.M.C. On the basis of the above calculations the contention of the respondents is that there will be sufficient water supply available in Marathwada region. It is also contended that as of date over Rs. 40 crores have already been spent on the said Khadakpurna Project ever since 1995.

14. The Central Water Commission has also filed a reply contending that no clearance and approval has been given from Government of India or Central Water Commission with regard to said Khadakpurna Project. The submission of the Central Water Commission is that the Government of Maharashtra has submitted certain details and some more particulars have been sought from Government of Maharashtra. According to Central Water Commission a team of its officials had visited the said project around the 20th to 23rd December, 1996 and found the average utilisation of the project was only 679 M.Cum. as against the planned utilisation of 802 M. Cum. According to the Central Water Commission there does not seem to be any scope for further development of the basin. They have also referred to certain communications of the Central Minister for Water Resources directing Central Water Commission to take up this issue with the Chief Secretary of the Government of Maharashtra to persuade the State Government not to proceed with the Khadakpurna Project without resolving the issue regarding the availability of water.

15. In this writ petition Vidarbha Statutory Development Board, constituted as per the provisions under Article 371(2) of the Constitution of India, through its Chairman and one Shri M.G. Kimmattkar sought to intervene so as to protect the interests of residents of Vidarbha region. They were allowed to be impleaded as intervenors and they were allowed to make submissions also. In their affidavit it

is categorically mentioned that the Khadakpurna Project will have a capacity of 116.37 M. Cum. and this project will benefit around 18000 hectares of land. It is pointed out that the said Buldhana District has a huge backlog of irrigation facilities and this project will remove certain amount of this backlog and bring about a balance. In this affidavit it is pointed out that the average irrigation potential in the State of Maharashtra is 37% whereas in Buldhana District the irrigation potential is only 16%. On the contrary the irrigation potential in Parbhani and Nanded Districts is 35% and 41% respectively. Therefore, there is all the more necessity to provide irrigation facility and as of now 24749 hectares in Buldhana District have been declared as drought prone area. The entire Vidarbha region is lacking in irrigation facility in almost 527310 Hectares out of which, Buldhana district alone lacks irrigation facility in 84780 hectares. In the said affidavit it is pointed out that the President of petitioner No. 1 Shri Govinddas Shroff had approached the Hon"ble Chief Minister to set up a Committee to go into these grievances of people of Marathawada region. Accordingly committee was formed by the Government of Maharashtra by a Government Resolution dated 28th May, 1997 consisting of the Minister of Irrigation as its Chairman and almost 20 other members. The said Committee after going to into all the aspects had found the said Khadakpurna Project to be viable. In this affidavit it is also mentioned in last 28 years, in 17 years there has been overflow of water and the said water has ultimately gone to the State of Andhra Pradesh which could have been very well used by the State of Maharashtra. This project will successfully utilised excess water for the benefit of the residents of Buldhana District. It is emphasised that the excess water could be utilised by the State of Maharashtra itself instead of allowing the said water to overflow in to the State of Andhra Pradesh. It is contended that the Khadakpurna Project will not affect the irrigation facilities available in the Parbhani and Nanded districts and the same would be beneficial to the people of Buldhana district. It is also pointed out that nearly, as of date, over Rs. 34 crores have already been spent on this Khadakpurna Project.

16. In this background, Shri Deshmukh, the learned Senior Counsel who is appearing for the petitioners mainly sought to challenge the aforesaid Khadakpurna Project on the following grounds :---

- a) No prior approval or clearance has been obtained by the State of Maharashtra and Vidarbha Irrigation Development Corporation from the Central Water Commission ;
- b) The said Khadakpurna Project would be violative of sections 107 and 108(2) of the States Reorganization Act, 1956 in the sense that if this project is allowed to come up, it would amount to varying the existing Purna Project;
- c) That the financial and technical viability of the said project has not been properly studied and also that there is a serious apprehension of reduction of water in Nanded and Parbhani districts if the said Khadakpurna Project is fully implemented.

17. Shri Sawant, the learned Senior Counsel appearing on behalf of the State of Maharashtra has pointed out that now the entire project has been handed over to respondent No. 4 viz. Vidarbha Irrigation Development Corporation, since 1997, when the said Corporation came into existence. He also stressed that the State of Maharashtra has to balance the water supply so as to benefit the farmers of the Buldhana district which is a highly drought prone area. He also reiterated that the Khadakpurna Project would not reduce the water supply in Nanded and Parbhani districts inasmuch as the full water has not been utilised and in fact during 17 years out of last 28 years there has been an overflow of water and the same has been going into the State of Andhra Pradesh. He has also strongly stressed that initially the said Khadakpura Project was conceived in the year 1985 finally after studying all the aspects the same has approved in the year 1989 and now the petitioners have filed this petition in the year 1999 as such the petition suffers from gross laches and this Court ought not to exercise its extraordinary jurisdiction under Article 226 of the Constitution in such circumstances. He also pointed out that water being the State's exclusive subject under Item 17 of the State List of the VII Schedule to the Constitution of India and neither the Central Water Commission nor Central Government has any role to play in the sense there is no mandatory requirement of any clearance or approval under any law from the Central Water Commission or Government of India. He further submitted that such approval would come in only if there is a financial liability for the Government of India or that the same is included in any of the five year plans. Admittedly, Shri Sawant submitted that there is no financial assistance from the Central Government as such neither the Central Government nor the Central Water Commission has any say in this project. He also strongly relied on the aforesaid report of 10th November, 1993 of the Chief Engineer, Aurangabad wherein the figures clearly indicate that there would be no prejudice caused to the Marathwada region. He also pointed out that figures under the report of rain water fall pattern for about 35 years which ended in the year 1954 is relied upon in the petition whereas further rainfall water pattern from 1952 to 1987 has been taken into account in the aforesaid report of the Chief Engineer dated 10-11-1993, wherein the rainfall pattern shows much higher rainfall and as such availability of water is much higher than the figures quoted in the Purna Project report. In the Chief Engineer's report dated 10th November, 1993 the figures of rainfall upto 1987 have been taken into account and as such there is excess water available and therefore there is no question of Marathwada region suffering in any manner. Under these circumstances Shri Sawant, the learned Counsel contended that this Court ought not to interfere. He also relied upon a recent judgment of the Apex Court in the case of Narmada Bachao Andolan Vs. Union of India and Others, . of the said judgment the Supreme Court has held as under:---

"234. Conflicting rights had to be considered. If for one set of people namely those of Gujarat, there was only one solution, namely, construction of a dam, the same would have an adverse effect on another set of people whose houses and

agricultural land would be submerged in water. It is because of this conflicting interest that considerable time was taken before the project was finally cleared in 1987. Perhaps the need for giving the green signal was that while for the people of Gujarat, there was no other solution but to provide them with water from Narmada, the hardships of outsets from Madhya Pradesh could be mitigated by providing them with alternative lands, sites and compensation. In governance of the State, such decisions have to be taken where there are conflicting interests. When a decision is taken by the Government after due consideration and full application of mind, the Court is not to sit in appeal over such decision."

18. Shri Gilda, the learned Counsel for Vidarbha Irrigation Development Corporation contended that the petitioners have wrongly mentioned the distance between the Siddheshwar dam and Khadakpurna Project as 9 Kms. whereas the same is 81 Kms. He also submitted that there is a gross delay of over 10 years in moving this Court and this Court ought not to interfere especially in a Public Interest Litigation involving a large financial liability. In this regard he relied on paragraphs 45, 46 and 47 of the judgment in Narmada Bachao Andolan (supra) wherein the Supreme Court has held as under:---

"45. As far as the petitioner is concerned, it is an anti-dam organisation and is opposed to the construction of the high dam. It has been in existence since 1986 but has chosen to challenge the clearance given in 1987 by filing a writ petition in 1994. It has sought to contend that there was lack of study available regarding the environmental aspects and also because of the seismicity, the clearance should not have been granted. The rehabilitation packages are dissimilar and there has been no independent study or survey done before decision to undertake the project was taken and construction started.

46. The project, in principle, was cleared more than 25 years ago when the foundation stone was laid by the late Pandit Jawahar Lal Nehru. Thereafter, there was an agreement of the four Chief Ministers in 1974, namely the Chief Ministers of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan for the project to be undertaken. Then dispute arose with regard to the height of the dam which was settled with the award of the Tribunal being given in 1978. For a number of years, thereafter, final clearance was still not given. In the meantime some environmental studies were conducted. The final clearance was not given because of the environmental concern which is quite evident. Even though complete data with regard to the environment was not available, the Government did in 1987 finally give environmental clearance. It is thereafter that the construction of the dam was undertaken and hundreds of crores have been invested before the petitioner chose to file a writ petition in 1994 challenging the decision to construct the dam and the clearance as was given. In our opinion, the petitioner which had been agitating against the dam since 1986 is guilty of laches in not approaching the Court at an earlier point of time.

47. When such projects are undertaken and hundreds of crores of public money is spent, individual or organisations in the garb of PIL cannot be permitted to

challenge the policy decision taken after a lapse of time. It is against the national interest and contrary to the established principles of law that decisions to undertake developmental projects are permitted to be challenged after a number of years during which period public money has been spent in the execution of the project."

19. Shri Gilda also contended that as mentioned in para 27 of the affidavit in reply as of date the said Vidarbha Irrigation Development Corporation has already spent over Rs. 40 crores in the said project and at this stage this Court ought not to interfere. He also pointed out from the reply that the Marathwada region has a higher irrigation potential compared to Buldhana district. He also contended that prior clearance and approval from Central Water Commission is not mandatory under any law and there is no statutory obligation to obtain any such clearance.

20. Shri Gilda also referred to the aforesaid Narmada Bachao Andolan case with regard to scope of High Court's interference with such projects and in this context he referred to paragraphs 223, 224, 225 and 226 of the Apex Court judgment which read as under:---

"223. There are three stages with regard to the undertaking of an infrastructural project. One is conception or planning, second is decision to undertake the project and the third is the execution of the project. The conception and the decision to undertake a project is to be regarded as a policy decision. While there is always a need for such projects not being unduly delayed, it is at the same time expected that as thorough a study as is possible will be undertaken before a decision is taken to start a project. Once such a considered decision is taken, the proper execution of the same should be taken expeditiously. It is for the Government to decide how to do its job. When it has put a system in place for the execution of a project and such a system cannot be said to be arbitrary, then the only role which a Court may have to play is to see that the system works in the manner it was envisaged.

224. A project may be executed departmentally or by an outside agency. The choice has to be of the Government. When it undertakes the execution itself, with or without the help of another organisation, it will be expected to undertake the exercise according to some procedure or principles. The NCA was constituted to give effect to the Award, various sub-groups have been established under the NCA and to look after the grievances of the resettled outsets and each State has set up a Grievance Redressal Machinery. Over and above the NCA is the Review Committee. There is no reason now to assume that these authorities will not function properly. In our opinion the Court should have no role to play.

225. It is now well-settled that the Courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy making process and the courts

are ill equipped to adjudicate on a policy decision so undertaken. The Court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution. Even then any challenge to such a policy decision must be before the execution of the project is undertaken. Any delay in the execution of the project means over run in costs and the decision to undertake a project, if challenged after its execution has commenced, should be thrown out at the very threshold on the ground of laches if the petitioner had the knowledge of such a decision and could have approached the Court at that time. Just because a petition is termed as a PIL does not mean that ordinary principles applicable to litigation will not apply. Laches is one of them.

226. Public Interest Litigation (PIL) was an innovation essentially to safeguard and protect the human rights of those people who were unable to protect themselves. With the passage of time the PIL jurisdiction has been ballooning so as to encompass within its ambit subjects such as probity in public life, granting of largess in the form of licences, protecting environment and the like. But the balloon should not be inflated so much that it bursts. Public Interest Litigation should not be allowed to degenerate to becoming Publicity Interest Litigation or Private Inquisitiveness Litigation."

21. After hearing all the Counsel at length, though as rightly pointed out by the respondents that this writ petition ought not to be entertained in view of the laches of over 10 years, we have still heard the matter on merits especially in view of the fact that this project would affect a large number of persons and we were not inclined to dismiss the writ petition only on the ground of laches. However, we make it clear that this petition does suffer from laches especially when the State Government had approved the project as far back as in 1989 and over a sum of Rs. 40 crores have already been spent on the said project. Therefore, it would not be appropriate at all for this Court to interfere especially in the light of the observations of the Apex Court in Narmada Bachao Andolan case (supra).

22. As far as the clearance from Central Water Commission is concerned neither the learned Counsel for the petitioners nor the learned Counsel for the respondents could point out any provision of law laying down that such a clearance and approval is mandatory. The learned Counsel for the Central Water Commission had produced various circulars which indicate that in case the Central Government were to finance the project then Central Water Commission as well as Central Government had to clear the said project. Admittedly, in this case there is no Central assistance whatsoever and we do not find any substance in the contention that prior clearance of Central Water Commission is necessary.

23. As regards the objection that the people of Marathwada region would be badly affected by reduction in water supply due to the Khadakpurna Project the same appears to be ill-founded. As rightly pointed out by Shri Sawant the rainfall pattern keeps repeating once in 35 years that is to say there is a pattern of

rainfall with 35 years cycle, and highest rainfall is taken as a middle point and the rest of the rainfall are taken on either side. As pointed out by the learned Counsel that the rainfall pattern from 1952 to 1987 has drastically changed and there is substantial increase in rainfall and this also explains as to why during the last 28 years over 17 times there has been a overflow of water from the State of Maharashtra to State of Andhra Pradesh. That it to say the State of Maharashtra though entitled to utilise 100% water the same has been overflowing into the State of Andhra Pradesh. Therefore, with the increase in rainfall and overflow of water into State of Andhra Pradesh, we do not find any substance in the apprehension that there will be a drastic reduction in the water supply to Parbhani and Nanded districts. Even assuming that there were to be some slight reduction in water supply to Parbhani and Nanded districts, there cannot be any violation of Article 21 of the Constitution of India as sought to be contended by the learned Counsel for the petitioners. Article 21 does not contemplate that perennially the State must guarantee sufficient quantity of water for irrigation. State has to ensure also that the available water is equitably distributed all over the State. In an adjacent district of Buldhana which is extremely drought prone and the irrigation potential is much less compared to districts Nanded and Parbhani the obligation of the State to provide adequate water to improve the living standard of those persons in Buldhana District cannot be faulted with and the petitioners cannot claim an absolute right over the water supply.

24. As far as the technical and economic viability of the Khadakpurna Project is concerned, apparently the State of Maharashtra has considered all the aspects and has approved the same as far back as in 1989. Even subsequently at the instance of President of petitioner No. 1 a new Committee was constituted by the State of Maharashtra which had gone into the grievance of people of Marathwada Region and which also appears to have concluded that there would be no prejudice caused to the people of Marathwada Region by implementing the said Khadakpurna Project. This Court cannot sit in appeal over the same.

25. As far as the application of section 108 of the States Reorganization Act, 1956 is concerned the same would not apply at all inasmuch as the said section contemplates no variation of an existing project as on the appointed day i.e. 1st November, 1956; whereas in the case of Purna Project, the same was fully completed and implemented in 1968 without any variation. This Khadakpurna Project has nothing to do with Purna Project which was already commenced and completed. This project known as Khadakpurna Project is an independent and separate one and this project cannot vary an earlier project and as pointed hereinabove there is no question of any variation of Purna Project by this Khadakpurna Project and this argument also has no substance.

26. As pointed out by the Apex Court this Court's jurisdiction to interfere with such project is very limited and we have not been shown any violation of any law or statutory provision or mandatory requirement which has not been complied with, we cannot sit in appeal and judgment over the policy decision of the State

to provide water to Buldhana district as these are purely questions of policy and this Court cannot sit in judgement over it.

27. Under these circumstances we find no merit in the writ petition and the writ petition stands dismissed. However, with no order as to costs.