

Maharashtra Water Regulator:

Surely, people should have a say

Maharashtra's new trend setting law on water envisages no role for people from outside the government

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This sounds weird, but it is true. The Maharashtra Water Resources Regulatory Authority Act (MWRRAA) of 2005, a pioneering act of its kind, has no role for the people outside the bureaucracy and the ministers. This shocking revelation was reinforced at a recent meeting organised by the Gomukh and Arghyam in Pune, where the chairman and the secretary of the Authority also spoke. The Act is now being amended, the MWRRA secretary, Suresh Sodal informed the participants, to bring into the Act's ambit the groundwater development and management issues and also to expand the tariff fixing role of the Authority. This may be a good opportunity to bring in other amendments to give people of the state some worthwhile role in the functioning of the authority and the water sector. The assurance by the officials of the authority that people will have an opportunity to express their views (and the officials will decide what to do with them) is clearly inadequate, to put it mildly.

Interestingly, the objective of the MWRRAA, as stated in the act is, "to regulate water resources within the State of Maharashtra, facilitate and ensure judicious, equitable and sustainable management, allocation and utilisation of water resources". Maharashtra is the first state in India to come out with such an act, but it is clear that the union government would like such acts to be passed by all the states. Particularly when the World Bank wants this as part of the Water Sector Reforms. Arunachal Pradesh has already passed such an act and Gujarat has drafted one over two years ago.

Significantly, the MWRRAA was published in Gazette on May 4, 2005 and the World Bank funded US \$ 325 million Maharashtra Water Sector Improvement Project was cleared on May 26, 2005. The Project Appraisal Document of the WB loan is candid about its role in making such act a reality. In fact, as the Bank document declared, one of the key legal conditions of the loan was to, "establish MWRRA by no later than Dec 31, '05 and make it operational by Sept 30, '06." Ajit Nimbalkar, Chairman of the authority accepted the crucial role of the Bank in making the MWRRAA possible.

Broadly, the act consolidates the hold of the government in planning and decision making in water sector. For a sector that is characterized by non transparent, unaccountable, non participatory, top down and big dam centric approach, the act facilitates weakening of the accountability of the politicians of their actions in water sector. This cannot be good for democracy. Bringing sweeping changes in the water sector, the Act also empowers the authority to allocate and change entitlements of water for various categories (e.g. agriculture, domestic, industrial, etc) and users of water. Sodal also revealed that the concept of entitlement for various categories of use and within each category is being introduced in 6 pilot irrigation projects (Kukadi, Ghod, Mangi, Wafgaon, Diwale & Benikre) for 2 years.

Moreover, for the first time in India, the act also empowers the authority to create mechanisms for trading of water entitlements. This again cannot be good for the poor and weaker sections of the population. In a trade between the prosperous and the poor, it is well known who would win and who will suffer.

This mix of non transparency, lack of accountability and lack of representation of people from crucial water sectors outside the government, with this concept of trading of entitlements, so that the water goes to the highest valued users, could be very dangerous for access of the poor and weaker sections to the water they need for life and livelihood. For example, it could mean that since industries and urban users are considered higher valued users in the World Bank parlance, the needs of the rural, agriculture and poor sectors within a region and weaker regions within the state would get lower priority or even no priority while entitlements are considered and traded. There can be several other serious implications.

Such sweeping powers and sweeping changes in the water sector, without even a wide and informed consultation across the state is neither warranted, nor justified. It seems to be a case of the World Bank agenda being uncritically accepted by the state govt. Here it may be added that the bill was brought before the legislative assembly in the last hours of the last of the session on April 13, '05. There was not even an opportunity to read the bill, leave aside debate it and it was passed by voice vote, as one of the legislators said.

Most atrociously, a reading of the act shows that the act has no significant role for anyone outside the government. Looking at the constitution of the Authority (all three members are current or former bureaucrats and five special invitees are officials from government agencies), the River Basin Agencies, the State Water Board, the State Water Council, the Selection Committee (for selecting the Chairperson who "shall be a person who is or who was of the rank of Chief Secretary or equivalent thereto"), there is no place for anyone outside the government in any of these. This cannot be an acceptable situation. The two members of the Authority (besides the Chairperson) are supposed to be experts in engineering and economics. When over 80% of water use is in Agriculture (on which 65-70% of people depend), and when every action in the water sector has such profound impact on environment, there is no place in the act for having members from Agriculture, Environment and Social sectors. The first thing the government needs to do is to add experts from these three areas as full members and they should come from outside the government and should not be former bureaucrats.

Thus it seems this has been a missed opportunity to bring some fundamental changes in the character of India's water sector. The minimum one can expect is to suspend the act till there is a wide and informed debate on the Act, its rules and regulations (currently under the consideration of the state government) and implication there of. Moreover, the reforms should be bottom up, if they are to respect the democratic norms of India's constitution.

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