

## **BACKGROUND NOTE ON THE DIRECTIVES**

### **Special Responsibility of the Governor :**

The Constitution of India was amended in November 1956 enabling the President of India under Article 371(2) to provide for the special responsibility of the Governor of Maharashtra for the establishment of Development Boards for Vidarbha, Marathwada and the rest of Maharashtra regions. Although the Constitution was amended in 1956, it was only on 26 July 1984 that both the Houses of the Maharashtra State Legislature passed resolutions requesting the President of India to make an order in exercise of his powers under Article 371(2) of the Constitution. Even after the passing of this resolution in 1984 no concrete steps were taken till 1994 to set up the Boards. Apparently there was lack of consensus among the political leaders in the state about the feasibility of the proposed arrangement and also about the advisability of entrusting the Governor with such special responsibilities.

Some leaders were of the view that the Governor could become a supra-constitutional authority and since he will be functioning without accountability to the Legislature in exercise of his special responsibilities, such an arrangement would undermine the basic principle of Parliamentary system of government. It was only in 1994 that the Central and State Governments could eventually agree that the scheme would be in the best interest of the state and it could be implemented without creating any constitutional problems if handled with tact and understanding by all concerned. It was in this background that the President issued an order on 9 March 1994 assigning to the Governor of Maharashtra the special responsibilities under Article 371(2) of the Constitution. On 30 April 1994 the Governor of Maharashtra issued the "Development Boards for Vidarbha, Marathwada and the rest of Maharashtra Order, 1994" constituting separate Development Boards for the three regions.

Ever since the setting up of the Boards in 1994, healthy conventions and procedures have been set under which the Boards are functioning as useful bodies in the planning process of the state and particularly in the removal of backlog in the backward regions of the state. The arrangements have been working very smoothly and without any controversy or conflict.

The special responsibilities entrusted with the Governor of Maharashtra under the Constitution are for ensuring :-

- (a) equitable allocation of funds for development expenditure over the three regions subject to the requirements of the state as a whole; and
- (b) equitable arrangements for providing adequate facilities for technical education and vocational training and adequate opportunities for

employment in the services under the control of the State Government in the three regions subject to the requirements of the state as a whole.

### **Increasing Regional Imbalances :**

The regional imbalances had been increasing since the backlog was first identified by the Fact Finding Committee in 1984 and subsequently by the Indicators and Backlog Committee in 1994. The share of Vidarbha in the overall backlog has increased from 39.12% in 1984 to 47.60% in 1994 and further to 48.26% as on 1 April 2000. Similarly, in case of Marathwada region, it has increased from 23.56% in 1984 to 28.77% in 1994 and further to 29.62% as on 1 April 2000. On the other hand, the share of rest of Maharashtra region in the overall backlog has decreased from 37.32% in 1984 to 23.62% in 1994 and further to 22.12% as on 1 April 2000. Thus, the regional disparity continued to increase over the years in Vidarbha and Marathwada despite special allocations for backlog removal.

The regional disparity increased more conspicuously in the irrigation sector. The proportion of backlog in the irrigation sector in the overall backlog of Vidarbha had increased from 42.30% in 1984 to 61.64% in 1994 and further to 68.47% as on 1 April 2000. Similarly, in the case of Marathwada region, the same has increased from 42.18% 1984 to 59.96% in 1994 and further to 61.29% as on 1 April 2000. On the other had, the proportion of backlog in the irrigation sector in the overall backlog of the rest of Maharashtra region has decreased from 45.56% in 1984 to 27.65% in 1994 and further to 18.42% as on 1 April 2000.

In this background of increasing regional imbalance especially in the irrigation sector, it was the constitutional responsibility of the Governor to intervene and to see to what extent this distortion could be corrected before the situation got out control. The Governor's Oath of office binds him to preserve, protect and defend the Constitution and to faithfully discharge his functions as Governor. It was therefore obligatory on him to intervene under Article 371(2) to set right the steadily growing regional imbalance.

### **Fair Representation to the rest of Maharashtra region in the Indicators and Backlog Committee**

The report of the Indicators and Backlog Committee was sent to the State Government for its comments. The State Government had communicated that some departments, especially Irrigation Department had expressed different views regarding assessment of backlog. Thereafter, the Governor had appointed the reconstituted Indicators and Backlog Committee to go into the details about the views of these departments. The reconstituted Indicators and Backlog Committee gave sufficient representation to rest of Maharashtra region by including in it the following members from that region :-

- (1) The Chairman, Development Board for the rest of Maharashtra;
- (2) Shri Hasan Miyalal Mushrif, MLA and Member of the Board;
- (3) Dr. S.K. Dorge, Expert Member, Development Board for the rest of Maharashtra;
- (4) Member Secretary, Development Board for the rest of Maharashtra.

Keeping in view the very technical nature of the issues concerning the Irrigation Department, the reconstituted Indicators and Backlog Committee had appointed a sub-committee to deal with those issues in the irrigation sector with the following members :

- (1) Shri S. T. Deokule, Expert Member, Development Board for the rest of Maharashtra;
- (2) Dr. A.K. Shenolikar, Retired Chief Engineer, Irrigation Department;
- (3) Shri B. A. Kulkarni, Retired Secretary, Irrigation Department; and
- (4) Shri S. L. Varudkar, Retired Chief Engineer, Irrigation Department.

Thus, full care was taken to give fair representation to experts from the rest of Maharashtra region. Therefore, the criticism in certain circles that there was no representation to the rest of Maharashtra region in the Indicators and Backlog Committee is not true.

### **Wide ranging consultation with Boards, Experts and the State Government**

Before issuing the Directives, the Governor had extensive rounds of consultation with the three Development Boards, Irrigation, Experts, Senior officers of the Irrigation Department and field level officers of the Irrigation Development Corporation in the state. The Governor thereafter had detailed discussions with the Finance Minister and the Chief Minister before issuing the Directives. The Directives are designed to do full justice to the needs of all the regions in the state including the rest of Maharashtra region.

### **Priority to DPAP areas while allocating irrigation funds within the region**

While prescribing the formula for distribution of funds in the irrigation sector, factors like backlog, net sown area and population were taken into consideration. Whether DPAP area should also be one of the factors was discussed in detail. From the information provided by the Irrigation Department, out of 66 DPAP talukas in the rest of Maharashtra region, 41 talukas have irrigation facilities above the state average. In addition all the districts having DPAP areas in the rest of Maharashtra region are at present above the state average in irrigation. Therefore, DPAP areas was not considered as one of the

factors in distribution of the funds. However, a specific mention was made in the Directives that the 25 DPAP talukas in the rest of Maharashtra region which are below the state average should be accorded priority while allocation irrigation funds inter se within the rest of Maharashtra region.

If due importance was not given to backlog as a factor in determining the policy of allocation of funds for irrigation, the situation of growing imbalance in the irrigation sector would have continued and the problem aggravated further. It was therefore inevitable that allocations should take note of the backlog factor.

### **Special consideration for committed expenditure**

While adopting the formula for distribution of allocation in the irrigation sector, the information on committed expenditure was obtained from the Irrigation Department and was taken into consideration. How to have a policy without diluting committed expenditure, so that ongoing works in Krishna Valley are not disturbed was an important consideration while framing the Directives. The priority to committed expenditure in the three regions could be ensured only by assigning higher weightage to population in the formula of distribution of allocation in a phased manner over a period of next 4 years. The Directives specifically ensure that the new formula does not result in halting the works already started. For example, if the committed expenditure was not considered, then with the new formula of 50% weightage to backlog and 25% each to net sown area and population liquidating the backlog in next 4 years would have resulted in reducing the allocation for rest of Maharashtra region from Rs. 1243 crore in 2001-02 to Rs. 713 crore in the next 4 years. However, taking into consideration the committed expenditure in all the three regions and by assigning higher weightage to population in the initial period, the rest of Maharashtra region would get Rs. 903 crore during the current year assuming that the plan size for irrigation sector would remain the same at Rs. 2476 crore for the next 4 years. Thus, the Directives ensure that ongoing works especially in the Krishna Valley do not suffer.

The committed liability for the entire state as on April 2002 as per information given by the Irrigation Department is Rs. 12524 crore, out of which Rs. 7384 crore is in the rest of Maharashtra region. An important fact to be borne in mind in this context is that even if the allocation for the rest of Maharashtra region for irrigation had been maintained at the previous year's level, it would have been grossly inadequate to meet the committed expenditure in one or two years for the Krishna Valley Irrigation Development Corporation (KVIDC). Even in the absence of any Directives by the Governor and presuming an allocation of Rs. 1243 crore in the rest of Maharashtra region (which is the same as the allocation for 2001-02 and assuming that the total allocation in irrigation sector would remain same at Rs. 2476 crore, which the total allocation for 2001-02) it would take at least 6 years to meet the committed liability in that region. Thus, the committed expenditure liability in any case has to be phased out over the

next several years and cannot be met in one year. Therefore, the criticism that ongoing works will come to a halt in the rest of Maharashtra region as a result of the Directives is without substance. Given the limitations of resources available and the priorities accorded for various development sectors, it would have been impossible for the State Government to increase the allocation of funds for irrigation beyond what was provided for last year. Within the limited availability of funds, there was no way of ensuring equity and fairness to all the regions including the rest of Maharashtra other than through the formula indicated in the Directives.

### **Problem of carried over liability**

After the Directives were issued on 15 December 2001, the Finance Minister on 30 March 2002 without any previous intimation brought to the notice of the Governor that around Rs. 1876 crore pending liability will have to be carried over to the financial year 2002-03 on account of the works already executed and other liabilities pertaining to rehabilitation of project affected families in the KVIDC area. After the constitution of KVIDC, a large number of works in Krishna Valley seem to have been taken up by the Corporation on the expectation that it could raise adequate funds through borrowings from the market in addition to support from the budget. However, on account of the financial constraints faced by the State Government, the allocation during 2001-02 was reduced by the Finance Department to Rs. 776 crore for KVIDC. Out of this allocation of Rs. 776 crore, only Rs. 250 crore could be raised from the market because of poor response. This led to a severe financial crunch resulting in the shortfall in the funds available with the Corporation. It will thus be seen that the crisis of carried over liability in KVIDC is not in any way due to the Directives issued by the Governor, but is the result of the fact that expenditure had far exceeded the resources available with the Corporation.

However, it was the endeavour of the Governor, the Chief Minister and the Finance Minister at the meeting convened by the Governor to find a way of helping the various Irrigation Corporations to meet the serious problem of committed expenditure carried forward from the previous year especially in the KVIDC. It was found that Rs. 1150 crore which had been allowed to be raised from the market had remained uncollected. Of this Rs. 773 crore was the share of the rest of Maharashtra region, Rs. 183 crore of the Marathwada region and Rs. 193 crore of the Vidarbha region. It was decided at this meeting that the State Government should be allowed to raise this amount of Rs. 1150 crore from the market this year in addition to the provision made for this year, after getting the approval of the Planning Commission. This would allow an additional allocation of Rs. 773 crore to the rest of Maharashtra region, Rs. 183 crore and Rs. 193 crore to the Marathwada and Vidarbha regions respectively. The rest of Maharashtra region would thus get Rs. 773 crore in addition to Rs. 903 crore in the Annual Plan 2002-03, totaling Rs. 1676 crore, which is much more than Rs. 1243 crore, the allocation for 2001-02. It is important to note that by allowing this

extra borrowing from the market, there will be no distortion in the assessment of backlog made in the Governor's Directives as the backlog as on 1 April 2002 had been calculated by presuming that this amount of Rs. 1150 crore had already been raised from the market and utilised. The Government has already moved the Planning Commission for permission to raise these funds from the market in addition to the plan provision for the current year. This should help a great deal in setting pending claims and going ahead with the works which are already under construction. However, the KVIDC will not be able to take up new irrigation projects within the allocations made for them. the KVIDC will have to undertake a serious critical review of the works taken on hand so far particularly some of its lift irrigation schemes to see which of them do not satisfy the strict criteria of technical and economic viability. If heavy expenditure is incurred on projects whose economic viability is doubtful, the farmer will not be able to pay the irrigation projects charges demanded of them.

According to the Directives, the borrowings from the market from this year onwards will be done by only one agency to be set up for this purpose by the State Government and it will be the responsibility of this agency to ensure that the borrowed funds are divided among the three regions strictly according to the proportion indicated in the Directives. Another very important part of the Directives is that the power to approve projects will hereafter be exercised at the regional level. This will take care of the complaints of the backward regions that their projects have not received proper attention from the Irrigation Department.

The Directives issues by the Governor introducing the new formula for allocation of funds for irrigation schemes will thus ensure that the interests of the people of all the three regions namely, Vidarbha, Marathwada and the rest of Maharashtra are equally protected. The projects under construction will not be allowed to suffer for want of funds but the relatively backward regions will be assisted not only to complete the works in existing projects but also to take up new projects.

The Governor has called upon the people's representatives in the state to ensure that the Directives issued by him to the government regarding equitable allocation of funds in the irrigation sector are not allowed to become a cause of inter-regional controversies. On the other hand the people's representatives must come together to implement the Directives so that there is balanced development in all the three regions and that all the areas including DPAP areas which are below the state average are addressed on priority.

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