

Sone River Water Dispute

A very serious problem in implementation of Bansagar agreement and the agreement on rihand project has arisen due to unauthorized use of rihand water for consumptive use industrial use for thermal power generation.

As per Bansagar agreement and agreement on rihand project, up has no share in rihand waters expect for generating hydropower through rihand and Obra Hydel Power Stations. And yet the U.P. Government set up thermal power plants in state sector and authorized national thermal power corporation (NTPC) to set up thermal power plants in central sector based on water supplies for consumptive use from rihand reservoir. This came to light in 1981 when the department of power approached the union ministry of irrigation for clearance of the feasibility report of 3000 MW Weidman super thermal power station. Reply of the ministry of irrigation was sent in Shri R.B.Singh's U.O.5/6/81-P.I. dated 22.04.81 (copy enclosed in annexure). In this letter the implication of setting up thermal power station based on rihand waters and the likely adverse affect on irrigation in Bihar were clearly made know to the department of power.

Then, the sone river commission submitted a detail note on this aspect to the then ministry of irrigation, based on which an inter-state meeting was held on 04.06.1993. a copy of the minutes of this meeting is in annexure VI for ready reference. Decisions were taken in this meeting according to which the state in which the thermal power plant is installed will be required to provide water its allocated share as per Bansagar agreement, either from the same sub-basin in which the state concerned had share to offset the use made or use authorized by it in may sub-basin of sone basin. This decision implied that the use for thermal power in rihand sub-basin will be made good by U.P. Government by its share of 1.0 MAF in Bansagar reservoir project. As a corollary it also implied that consumptive use of rihand waters, in the above-mentioned event, will start when corresponding supply from Bansagar reservoir are made available to obviate damage to irrigation system in Bihar. From the report SRC, it is found that U.P. Government have gone ahead in setting up thermal Plants and authorizing use of rihand water to NTPC. As per SRC's report the present position is as under:

Sl. No.	Name of Scheme	Capacity in MW.	Agency	Requirement of water in cases	Requirement in MAF
I. Existing projects:					
1.	Renusagar	270	M/s RPC	27	0.0195
2.	Obra	1550	UPSEB	155	0.1120
3.	Singrauli	1050	NTPC	105	0.0759
I."	Sub Total	2870		287	0.2074
II. On-going/Sanctioned Projects :					
1.	Singrauli	1000	NTPC	1000	0.0723
2.	Anapara A&B	1630	NTPC	163	0.1178
3.	Rihand I	1000	NTPC	100	0.0723
4.	Vindhyanchal I1260		NTPC	126	0.0911
5.	Anapara C	1500	NTPC	150	0.1084
II "	Sub-Total	6390		639	0.4699
III	New (Proposed) 10740		NTPC,	1074	07762
	By NTPC (20,000MW-9,260MW		RPC		
	Already installed)		MPEB		

It would be seen that the consumptive use of rihand waters in existing and On-going scheme will be of the order of 6.773 lakh acreft (0.6773 MAF) which would increase to 13.535 lakh acreft (1.3535 MAF) if sanction of the proposed schemes is not stopped. In no circumstance, the actual requirement will be less than this. Perhaps it will be substantially more if industrial water requirements in ancillary industries and townships are included herein. Unfortunality, SRC has, in consultation with CEA scaled down the requirements drastically and according to their recommendation and provision in simulation studies the total water requirement for 15,000 MW thermal power generation (to be completed by 1992-93) will be only 0.472 MAF, (the rate of consumption being only

0.0431 cusec/MW against the normal provision of 0.10 cusec/MW, that is, the present provision by SRC is only 43% of what should have been the minimum provision.

Thus, the situation is that rihand waters are being utilized in U.P. for consumptive use and projects are under execution for which more water will be used. Then, there is also proposal for substantial addition to thermal power generation capacity in rihand sub-basin. And all these are unauthorized because U.P. has no share of water for consumptive use in rihand sub-basin. Therefore, Government of Bihar has to take prompt action for implementing the decision taken in the inter-state meeting held on 4.6.4983. Unfortunately, this is yet to be ratified at Government/political level. In order to clinch the issue, Government may think of taking some chance of obtaining orders for suspension of On-going projects. Perhaps, some such step is also necessary to forestall sanction of new projects. That is equally necessary, because UP's share in Bansagar will be just enough to make up for the use in existing and on-going thermal power project.

Some of the constitutional and legal aspects of this problem are also being broadly discussed below though it is the exclusive domain of legal experts who, of course, may like to have an over-view of the situation obtaining. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water stores and water power subject to provisions of entry 56 of list I union list is in list II-state list. But by virtue of 56 of the union list the union Government has powers for regulation and development of inter state rivers and river valleys to the extent to which such regulation and development under the control of the union is declared by parliament by law to be expedient in the public interest. Thus, sone being an inter-state river, the union Government has powers of regulation and development in this basin; and it was in discharge of this authority that GOI got three inter-state agreements signed by concerned state though discussions and negotiations under its auspices, and shares of the three co-basin states were allocated. The problem that has subsequently arisen is regarding violation of the provisions of the agreement by one of the signatory states namely Uttar Pradesh. This state has no share in consumptive use of rihand waters, be it Rihand Lake or the Obra lake or the river and its tributaries. And yet, it has started using and authorizing use by NTPC of rihand waters and thereby causing shortfall in water supply into sone irrigation system from sone barrage in the lower riparian state of Bihar. Thus, it is not a matter concerning policies on regulation and development of the sone basin but, possibly, a matter of violation of an agreement by one of the parties to the agreement and by the action of this party another party to the agreement hit very adversely. No such it is necessary to consider the implication in consultation with competent layers in this field. Ordinarily, one would like to article 262 of the Indian constitution which relates to adjudication of disputes relating to waters of inter-state rivers or river valleys. It says that (1) parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-state river or river valley. (2) Notwithstanding anything in this constitution, parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as in referred to in clause (1).

Thus, the moot point that emerges now for consideration in regard to further course of action in so far as unauthorized use of rihand waters for consumptive use in Uttar Pradesh is concerned, is whether (a) the Bihar Government should approach the Union Government for adjudication referring to the decision over by the union secretary for irrigation and ask for limiting the use in U.P. for thermal power to 0.774 MAF in rihand sub-basin with equal quantity of water transferred to Bihar out of U.P.'s share of 1.0 MAF in Bansagar reservoir relevant extract from the minutes of the aforesaid meeting are :

“The consensus on the points posed in the Agenda note vide item No.6 – “ some policy decisions”, is given below :

1) NTPC confirmed that the Uttar Pradesh State Government had given the commitment regarding the availability of water from Rihand Lake for thermal power generation. (2) It was agree in principle that

in view of the constraint of water availability to Rihand Lake, possibility of relocating the thermal power stations of the area so as to utilize water from adjacent sub-basins like Gopad, Banas etc. should be considered. (3) and (5) : The share of each state on the use of some water having been decided by a tripartite agreement, the limit on its use for thermal power generation and other ancillary uses should be decided and borne by the state within its overall share of the water. (4) and (6) : it was felt that effect of diversion of water for thermal power generation was maximum in the case of the Rihand reservoir, particularly in the light of the fact that Uttar Pradesh does not have a share in the Rihand sub-basin under the tripartite agreement. Since some thermal power stations have already been commissioned and others are under construction, adjustment is called for in the operation of the agreement among the states by which the consumptive use committed by any state for a thermal power station in it will have to be made good by its foregoing an equivalent quantity in some other sub-basin from its overall share of water in the basin as a whole. Whereas in the case of thermal power station taken up by the state, requirement of water for the power station would naturally come from the particular state's share of the water, it was also agreed that in the case of projects taken up by the NTPC, the State which gives a commitment about the availability of water for the power station would meet such out of its over-all share of the water in the basin." An alternative course of action might be to initiate legal steps to claim for damages that have been caused due to the authorized use of Rihand waters till now, to restrain U.P. Government and NTPC from using Rihand water for consumptive use forthwith; and to enforce supply of Rihand waters to Bihar as per Bansagar Agreement, Agreement on Rihand project and customary right of Bihar in use of Sone waters including Rihand supplies since 1962-63. Whichever course of action is chosen, the urgency of this step could hardly be overemphasized because U.P. Government and the NTPC no longer limit their demands to about 0.47 MAF for existing and projects sanctioned till 1982 with total installed capacity of 6680 MW but they are planning for over 20,000 MW which will need over (1.5 MAF exclusive of reservoir losses). This will spell disaster for Bihar's irrigation system. It is needless to reiterate here once again that the quantum of consumptive use assessed by SRC in consultation with CEA is very much lower than the actual. In doing so, they have gone to the extent of ignoring the norm prescribed by CEA, and have failed to observe the actual uses in the existing power stations. Since, it is likely to be a major bone of contention, the water resourced Department may like to get a detailed note on this prepared in consultation with B.S.E. Board.