

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
EA NO. 2 OF 2024 (WZ)**

Sarang Yadwadkar & Ors.

Applicant

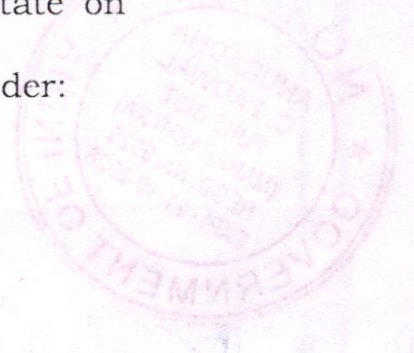
Versus

Pune Municipal Corporation & Ors.

Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF PUNE
MUNICIPAL CORPORATION (PMC) R4**

I, Srinivas Bonala, Age: 57, Chief Engineer,
Project Department, Pune Municipal Corporation,
Authorized Signatory on behalf of Respondent No.
4 hereinafter referred to as **"PMC"** do state on
solemn affirmation on behalf of PMC as under:



1. I am the Chief Engineer, Pune Municipal Corporation and Authorized Signatory on behalf of PMC. I have read the Original Application, and I am acquainted with the facts hence filing the present Affidavit on behalf of PMC herein. The present Affidavit in Reply is filing to the purpose to oppose the contentions raised in the Original Application against the PMC. I crave leave of this Hon'ble Tribunal to file Additional affidavits as and when the occasion so arises.

2. At the outset, I denied all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconstant with what is stated in the present Affidavit in Reply. Nothing contained in the Original Application should be deemed to be admitted by the PMC for want of specific



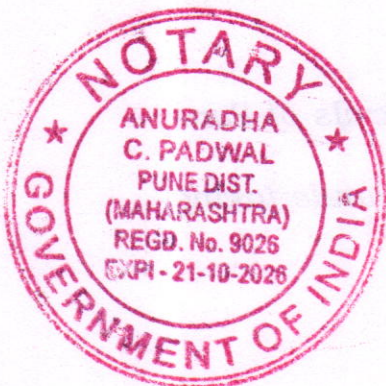
traverse unless the same has been specifically admitted herein below.

3. It is submitted that Applicant has filed present OA relating to Development of Riverside Road from Bund Garden Bridge to Mundhwa (Hereinafter referred to as "Project").

Prayers sought under the present Execution

Application.

- i. *Direct execution of Order dated 03.08.2018 of this Hon'ble Tribunal in Original Application No. 130 of 2018;*
- ii. *Initiate action against the officials of Pune Municipal Corporation for undertaking construction of road without complying with the Order dated 03.08.2018 of this*

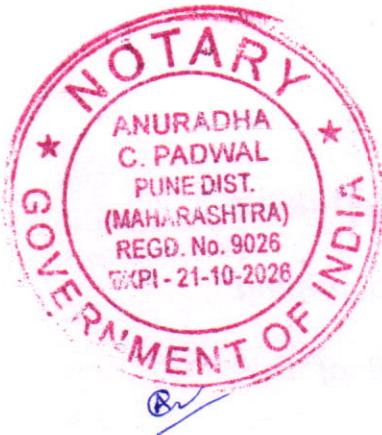


*Hon'ble Tribunal in Original Application
No. 130 of 2018;*

iii. *Direct demolition of the completed construction work relating to road running from Naidu STP to Mundhwa, passing through Bund Garden Bridge in Pune for having being constructed within Blue Line of Mula-Mutha River;*

iv. *Direct complete removal of the constructed road running from Naidu STP to Mundhwa, passing through Bund Garden Bridge, debris dumped and embankments constructed within the Blue Line of Mula-Mutha River;*

v. *Initiate action against the officials of Pune Municipal Corporation for undertaking*



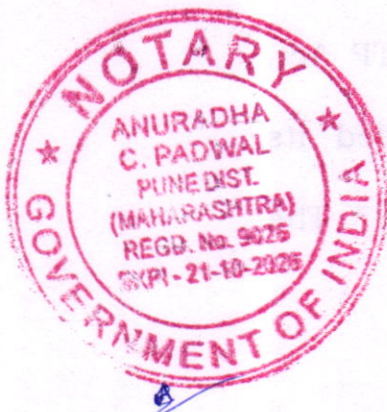
construction of road running from Naidu STP to Mundhwa, passing through Bund Garden Bridge in Pune in violation of the Circular dated 21.09.1989 of the Irrigation Department, Orders of the Hon'ble Tribunal in OA No. 2 of 2013, recommendations of the Expert Committee in OA No. 130 of 2018 and its own undertaking in MA No. 52 of 2014;

- vi. Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

4. **FACTS RELATING TO THE PROJECT**

- a. Road development is one of the key departments of Pune Municipal Corporation.

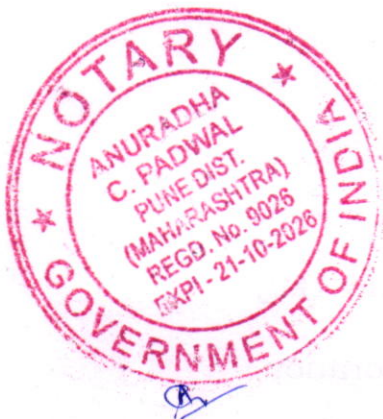
It acts like the lifeline of the fast-growing



infrastructure of the city. PMC is responsible for the construction and maintenance of all the roads that fall within the limits of PMC. PMC is responsible for the development and repair of all Development Plan (DP) Roads and Internal Roads.



- b. The draft Development Plan for Pune was prevailed u/s. 38 of the MRTP Act, 1966 and it was published u/s. 26(1) of the said Act on 28/03/2013. Suggestions and objections on the same were called upon. Accordingly, citizens, various private and government organization filed their suggestions and objections with regards to the Development Plan. Hearing was conducted by the Planning Committee u/s. 28 of MRTP Act, 1966. State of Maharashtra accorded its approval to the draft DP on 5/01/2017. The



Development Plan of 2017 for Pune City clearly embarks the proposed Project on the DP.

c. With regards to OA 130 of 2018 Sarang Yadwadkar & Ors. vs. PMC & Ors. before the Hon'ble Tribunal Principal Bench, New Delhi. The said Application was filed against the construction of Road, Metro or other structures in the prohibited zone inside the Blue Line in the riverbed of Mula Mutha River.

d. At that point of time PMC was planning to construct some portion of the road on piers which means PMC was planning to construct certain sections of this DP road as an elevated road on pillars. Therefore, the Hon'ble Tribunal was pleased to direct the PMC to comply with the direction passed by



the Hon'ble Tribunal in OA 130/2018 vide its order dated 03/08/2018.

e. It is pertinent to note that later Metro Project was given a go ahead by this Hon'ble Tribunal and by the Hon'ble Supreme Court of India whereby allowing Metro authorities to construct the pillars inside the blue line.

f. Environmental Clearance dated 16.11.2019 was granted by the State Environment Impact Assessment Authority (SEIAA) to PMC in respect of Mula, Mutha and Mula-Mutha River Rejuvenation Project. The River Rejuvenation project is a comprehensive plan with key objectives to clean the river and make it pollution free, reduce the risk of flooding, create a continuous public realm along the river, retain Water, improve city's connectivity to the river, and integrate



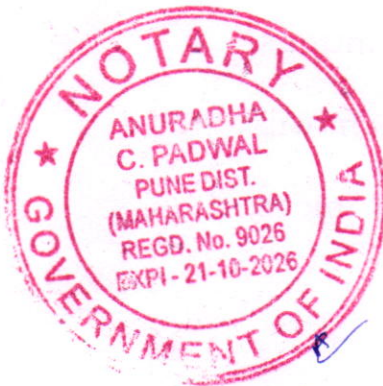
existing heritage structures, recreational, religious, and socio-cultural activities. It has been proposed to remodel and constrict the channel to a uniform cross section and the additional land including back filling behind the riverbanks is to be developed as a riverfront with Roads, parks, Promenades, Access points, Ghats, Walkways, Recreational facilities etc.

g. Mula, Mutha and Mula-Mutha River Rejuvenation Project to reduce the impact of indiscriminately built obstructions within the river such as bridges, causeways, weirs, check dams etc. on the flow of water by removing, streamlining, remodeling, or rebuilding them. Building embankments will also enable the creation of a continuous public realm along both banks which will ensure that people will be able to move



along the length of the river. Mula, Mutha and Mula-Mutha River Rejuvenation Project proposes to strengthen the existing street network by introducing bridges and access roads that will further enhance the connectivity to the river. Pedestrian and cycling routes will also be planned along the promenades of the riverfront. Mula, Mutha and Mula-Mutha River Rejuvenation Project will create a network of gardens, open spaces, and public promenades that will preserve the natural environment.

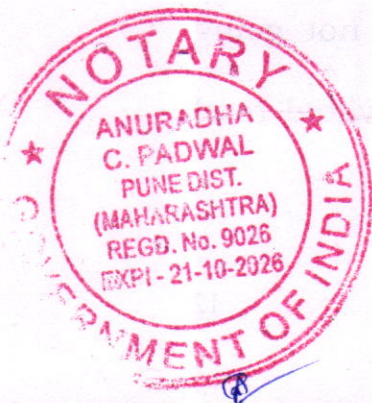
- h. Environmental Clearance for the project is obtained after detailed technical studies including: a. Area Assessment Report, b. Detailed Project Report, c. Detailed drawing portfolio consisting of several aspects like embankment master plan, land use plan, Cross sections, interceptor sewerage



network, stairs, ramps and ghats, barrage details etc., d. Environment Impact Assessment carried out in accordance with the approved Terms of Reference, e. Hydrology and Hydraulics study, f. Geotechnical investigation, g. Opinion Survey, h. Base map preparation.

i. Environmental Clearance dated 16.11.2019 in respect of Mula, Mutha and Mula-Mutha River Rejuvenation Project was challenged before this Hon'ble Tribunal by the Applicant and as per the directions of this Hon'ble Tribunal PMC has filed an application before SEIAA for amendment of the EC which is still under consideration.

j. The Project which is the subject matter of this Original Application is adjoining the Mula, Mutha and Mula-Mutha River

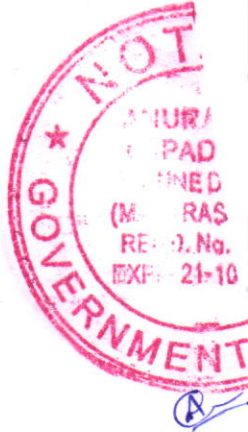


Rejuvenation Project therefore all issues regarding to the river are already taken care in the Environment Clearance granted for it.

5. **SCOPE OF THE PROJECT IS COMPLETELY CHANGED**

- I. In the year 2018 PMC had proposed certain portion of DP road as an elevated road on pillars. Now after the Mula, Mutha and Mula-Mutha River Rejuvenation Project, PMC has completely dropped the idea of constructing a elevated road but has taken a decision to construct the road at grade level. Detailed Presentation of the Project is already filed by the PMC on the previous date.

- II. In view of the above as PMC is not going ahead with construction of an elevated road



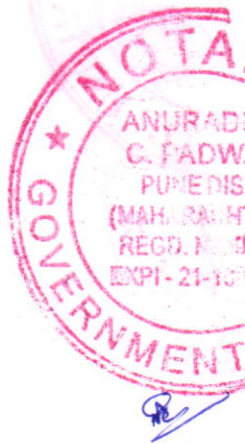
on pillars the directions imposed by Hon'ble Nation Green Tribunal in OA 130 of 2018 is not applicable. Therefore, PMC is not violating any of the directions passed by this Hon'ble Tribunal.

6. SALIENT FEATURES/NEED OF THE PROJECT

The proposed DP road between Bund Garden to Mundhwa is a part of sanctioned DP plan of 2017 and duly approved by Government of Maharashtra. Presently, traffic from Mundhwa, Kharadi, Keshav Nagar and Nagar Road is passing through 18-meter-wide North main road (Koregaon Park area) which is not capable of accommodating such huge volume of traffic. To reduce/ divert traffic from Koregaon Park area; 30-meter-wide road is proposed along the river; which will reduce

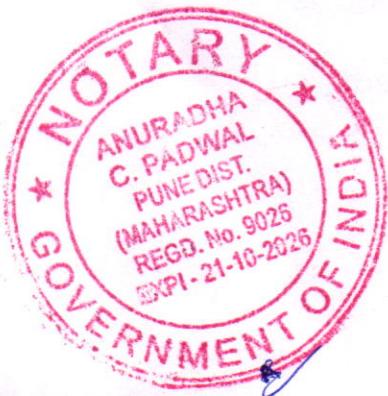


congestion not only in Koregaon Park area but also act as an alternate route for the traffic from Hadapsar, Mundhwa and Nagar Road areas; To reduce commuter load at Pune railway station; Railways are developing Hadapsar railway station as a terminal station for east bound commuter traffic. This proposed DP Road will help to reduce congestion on the existing road network also gives impetus to Hadapsar railway station development plan.



7. JUDGEMENT PASSED BY THIS HON'BLE TRIBUNAL IN ORIGINAL APPLICATION NO.57/2022(WZ) SHRI MAHESH KASHINATH RANAWADE VS. THE STATE OF MAHARASHTRA & ORS.

a) In the aforesaid matter this Hon'ble Tribunal has held that the construction of road



within Ble Line should be treated to be of public utility because the same would be used not only by the answering respondents but also by the local residents/villagers in the vicinity.

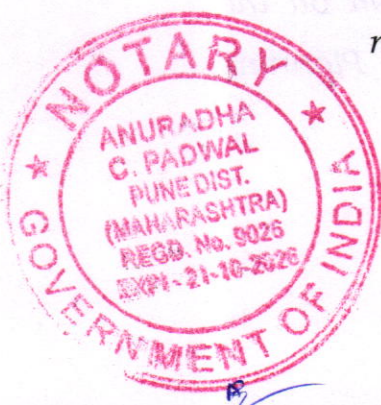
b) Relevant portion of the Judgement as quoted below:-

"..... we would also like to take assistance from the Unified Development Control and Promotion Regulations for Maharashtra State (UDCPR) dated 30.01.2023, where-in at point 3.1.3, following is laid down:-

3.1.3 Construction within Blue and Red Flood Line

i). Where Blue and Red flood line are marked on the Development Plan / Regional Plan or received from the Irrigation Department.

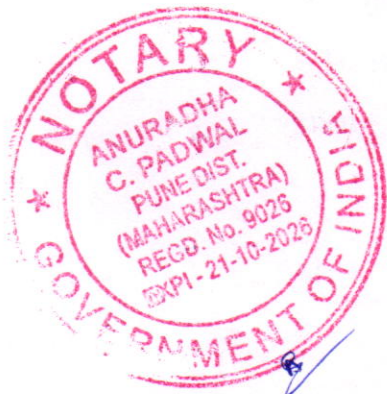
a) The Red Flood Line and Blue Flood Line shall be considered as per the plan prepared by the Irrigation Department. The area between the river bank and blue flood line (Flood line near



the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water / gas / drainage pipe lines, public toilet or like uses, provided the land is feasible for such utilization. Provided that, redevelopment of the existing authorised properties, within river bank and blue flood line, may be permitted at a plinth height of 0.45 m. above red flood line level.

b) Area between blue flood line and red flood line shall be restrictive zone for the purposes of construction. The construction within this area may be permitted at a height of 0.45 m. above the red flood line level. c) If the area between the river bank and blue flood line forms part of the entire plot in Development Zone, then, FSI of such part of land may be allowed to be utilised on the remaining land.

c) The red and blue flood line, if shown on the Development/Regional Plan / Planning



Proposal shall stand modified as and when it is modified by the Irrigation Department."

30. Above provision makes it clear that between river bank and blue flood line of the river, the activities such as parking (which implicitly mean road), open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water/gas/drainage pipe lines, public toilet or like uses are permissible activities, provided that they are permitted at plinth height at 0.45 mtrs. above the red flood line level.

31. If we apply this provision, in the case in hand, the construction of road should be treated to be of public utility because the same would be used not only by the answering respondents but also by the local residents/ villagers in the vicinity.....".

Hereto marked and annexed as **Annexure A** is the copy of Judgement.

8. It is submitted that the Applicant has made frivolous, baseless and unsubstantiated allegations against the answering Respondents



and thus the above captioned Application ought to be dismissed by the Hon'ble NGT. The answering Respondents crave leave to file a detailed Affidavit-in-Reply as and when sought necessary.

9. It is submitted that PMC is always sensitive and careful in matters relating to environment protection and has never tolerated any action which causes damage to the environment.

10. Therefore, neither the Pune Municipal Corporation nor any of its officer/servant has violated any directions of this Hon'ble Tribunal on the contrary has always followed the due procedure, functioned in accordance with the law and by all possible means assures that PMC will abide by the Law, hence it is requested before this Hon'ble Tribunal that the



present Execution Application may be dismissed.

Pune

Date: 30/4/2024

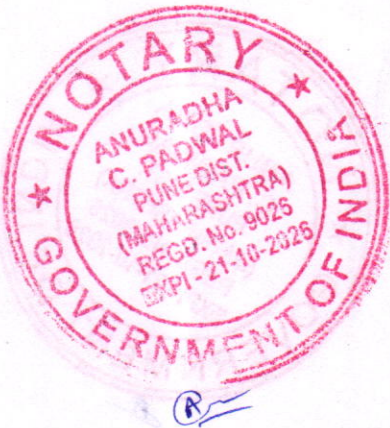


Bharat
Respondent No. 4.

मुख्य अभियंता (प्रकल्प)
पुणे महानगरपालिका

R. G. G. G.

Advocate for Respondent No. 4.





VERIFICATION

I, Srinivas Bonala, 57 Age Adult, Chief Engineer, Pune Municipal Corporation, Pune, do hereby verify that the contents of running paragraphs are true to my knowledge/based on records of the maintained in the ordinary course of business.

Solemnly Affirmed

Pune

Date: 30 day of 4, 2024.



Bonala

Affiant

मुख्य अभियंता (प्रकल्प)

(Pune Respondent No. 4)

Rgaleg

Advocate for Affiant



BEFORE ME

A Padwal

ANURADHA C. PADWAL
NOTARY
GOVERNMENT OF INDIA

NOTED & REGISTERED AT
SERIAL NUMBER 20/2024

30 APR 2024

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.57/2022(WZ)
I.A. No.61/2022(WZ) & I.A. No.103/2023(WZ)**

IN THE MATTER OF:

Shri Mahesh Kashinath Ranawade

R/at Village: Nande, Post: Lavale,
Taluka: Mulshi, District: Pune- 412 115.

.....Applicant

Versus

- 1. The State of Maharashtra**
through its Chief Secretary,
Department of Environment,
Government of Maharashtra,
Hutatma Rajguru Chowk, Madam Cama Marg,
Mantralaya, Mumbai- 400 032.
- 2. Collector, Pune**
Having his office at New Administrative
Building, Pune -411 001.
- 3. The Chief Engineer,
Khadakwasla Irrigation Division,**
Irrigation Department,
Govt. of Maharashtra, Sinchan Bhavan,
Barrie Road, Mangalwar Peth, Pune- 411 011.
- 4. Maharashtra Pollution Control Board,**
Through the Regional Officer, Pune,
Jog Centre, 3rd Floor, Mumbai-Pune Road,
Wakadewadi, Pune- 411003.
- 5. Pune Metropolitan Regional
Development Authority, Pune**
Off- S. No 152-153, Maharaja Sayajirao
Gaikwad Udhyog Bhavan Aundh,
Pune -411 007.
- 6. Mr. Aditya Aniruddha Deshpande**
R/at D- 301, 1 Modi Baug,
Ganeshkhind Road, Pune- 411 016.
- 7. Mr. Gaurav Suhas Katariya**
R/at 1137/5, Savali Baunglow,
Model Colony, Shivaji Nagar,
Pune- 411 016.

8. **Mr. Sunil Laxman Yadav**
R/at 407, Tadiwala Road, Near Maruti
Mandir, Pune- 411001
9. **Mrs. Seema Sunil Kamble**
R/at 407, Tadiwala Road, Near Maruti
Mandir, Pune- 411 001.
10. **Mr. Bhanudas Shrihari Karanjawane**
R/at Village: Nande, Post: Lavale,
Taluka: Mulshi, District: Pune – 412 115.
11. **Mr. Dattatray Shivram Ranwade**
R/at Village: Nande, Post: Lavale
Taluka: Mulshi, District: Pune – 412 115.
12. **Mr. Prasad Dashrath Ghare**
R/at Bebad Oval, Taluka: Maval,
District: Pune – 410 506.
13. **Smt. Vaishali Rohidas Karanjawane**
R/at Village: Nande, Post: Lavale,
Taluka: Maval, District: Pune – 412 115.

.....Respondent(s)

Counsel for Applicant:

Mr. Pritam Suresh Nigade, Advocate

Counsel for Respondent(s):

Mr. Aniruddha S. Kulkarni, Advocate for R-1/State Env't. Deptt.

Ms. Manasi Joshi, Advocate for R-4/MPCB

Mr. Dattatraya Devale, Advocate for R-5/PMRDA

Mr. Asim Sarode, Advocate for R-6 & 7/Pvt. Party

PRESENT:

Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)

Hon'ble Dr. Vijay Kulkarni (Expert Member)

Reserved on : 13.09.2023

Pronounced on : 21.09.2023

JUDGMENT

1. This Original Application has been filed with the prayer that respondent Nos.6 to 9/Private Respondents be directed to remove illegal construction of road in Survey No.1 of Village: Nande, Taluka: Mulshi, District: Pune and to restore the said land to its original condition.

2. In brief, the facts of this case are that the applicant, who is one of the agriculturists and resident of the area in question alleged that the respondent Nos.6 to 9/Private Respondents are raising illegal construction of a road by dumping of debris and trees cutting on the banks of Mula river, which would obstruct the excess water of river Mula, particularly in rainy season, which would cause flood in the nearby areas. It is alleged that above-mentioned Private Respondents have purchased the land in question for developing the township project by the name “Urban Life Ventures”. The area, where the construction of road is being done, is falling in blue flood line of Mula River where no such construction is permissible. The photographs have also been annexed as Annexure- “B Colly” to indicate that the construction work is in progress. In this regard, no permission has been taken by the said respondents from the Competent Authority. The respondent Nos.6 & 7 in collusion with the respondent Nos.8 & 9 and with the help of local gundas and politicians have started illegal and unauthorized construction of township project on the banks of river Mula, resulting in deviation of original route of the river, which would result in heavy choking of river flow within the fields of villagers including applicant. Hence, above prayers have been made.

3. This matter was first considered by us on 07.07.2022 and noticed were directed to be issued to the respondents as well as constituted a Joint Committee to submit a report of the site in question.

4. Pursuant to the said order, the Joint Committee has submitted its report dated 25.11.2022, relevant portion of which is quoted herein below:-

“3.2 Allegations of the applicant and observations of the Joint Committee

Sr.	Allegations of the	Joint Committee observations
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No.	Applicants	
1.	Lands have been affected due to illegal construction of road by vast debris dumped and trees cutting on the banks of Mula River due to percolation of excess water in River is obstructed in rainy season also due to which lots of high waters may enter in to the village Nande	During joint committee inspection it is observed that construction of approach road was made by backfilling over burden soil and other aggregates. On the edge of River bank, a gabion mesh wall of about 3 x 2 feet was constructed by the project proponent, which is in Blue line of River Mula. Further, factual information about the gabion wall was requested from Dy. Executive Engineer, irrigation Department. Dy. Executive Engineer, Pune Irrigation Division vide letter dated 10/10/2022 has submitted the information about gabion wall structure. Copy of letter from Dy. Executive Engineer, Pune Irrigation Division is given at Annexure-3. Relevant extract from the aforesaid letter dated 10/10/2022 is given below: “Gabion mesh wall is constructed to retain soil erosion. Gabion walls are highly permeable and are able to bleed off any hydrostatic pressure eliminating the need to install a drainage system. Gabion walls are the flexible and are able to move with natural terrain. Gabion mesh structure is constructed in mesh work in which natural stones filled for width and depth which allows water to percolate and surpass flood water. After retention of flood water gabion wall allows water to percolate from land again to river stream eventually acting as a mutual structure maintaining ecological and aquatic system”
2.	Respondent No 6 to 9 never take any permission from competent authority before changing the agricultural zone in to residential/commercial zone for the said ongoing construction of road and township project. Respondent No 6 to 9 illegally and unauthorisedly started illegal dumping of debris of stones, rocks and murum for construction of road on the banks of Mula river	As per letter submitted by PMRDA on 22/11/2022, PMRDA has not issued any building permission on the said land till date. Letter of PMRDA dated 22/11/2022 is given at Annexure-4.

	<i>and obstructing the free flow of river and choked the flood line of the said river.</i>	
3.	<i>The respondent No 6 to 9 ought to get “Consent to establish” from Maharashtra Pollution Control Board under Air and Water Act and a copy shall be submitted to Environment Department before start of any construction work at site but failed to do so</i>	<i>The proposed project is a joint venture with “Urban Life Ventures” and the project proponent has obtained Consent to Establish (CTE) from MPCB on 11/09/2022 for total construction area (BUA) of 1,18,901.75 sq.m, which is valid up to commissioning of the project or 5 years whichever is earlier. Copy of CTE dated 11/09/2022 is given at Annexure-5.</i>
4.	<i>As per Maharashtra Land Revenue Code section 44 requires the permission from the permission from the collector to convert agricultural land into non- agricultural use that was not taken by Respondent No 6 to 9</i>	<i>Concerned authority has not given any specific reply despite rigorous follow-ups.</i>
5.	<i>Respondent no 6 to 9 ought to get permission from Respondent No 4 i.e MPCB for environmental clearance</i>	<i>PP has been granted Environmental Clearance (EC) by SEIAA, Maharashtra vide letter No. SIA/MH/MIS/229654/2021, dated 25/07/2022 for construction of a residential project for Total Built Up Area (TBA) of 1,18,939.03 sq.m (FSI: 69,297.79 sq.m & Non-FSI: 49,641.24 sq.m) based on layout sanctioned plan approval vide no. 537, dated 24/05/2022 for residential building having configuration of wing A to E: B+ St+P+17 F, wing F1 to wing F4: S+8 F, wing G1: B+S+5 F, wing G2 to G4: B+S+13 F and club house: G+1 F. Copy of Environmental Clearance dated 25/07/2022 is given at Annexure-6.</i>
6.	<i>Respondent No 6 to 9 ought to Take prior permission from The Chief Engineer, Khadakwasla Irrigation Division, before doing any type of construction on the banks of River Mula</i>	<i>Dy. Executive Engineer, Pune Irrigation Division vide letter dated 10/10/2022 has submitted the information about marking of Red & Blue line of River Mula. Copy of letter from Dy. Executive Engineer, Pune Irrigation Division is given at Annexure-3. Relevant extract from the aforesaid letter dated 10/10/2022 is given below:</i> <i>“Survey work for marking red line and blue line of mula river was conducted in year 2014. Road is parallel along Mula River bank, most of the part of the road is outside blue and red line, partly at depression</i>

		where proposed cross drainage work to drain rainfall water in river is shown within blue and red line area. at proposed location blue line R.L 558.750 and Red Line 558.790 i.e. only 4 cm difference is observed.” “As per G.R. framed by water resource department Govt. of Maharashtra Circular No. PuRaNi-2018/(182/2018) Sin. Vya. (Revenue), dated 03/05/2018 Para no.8 point no. (ii) public road is permitted in restrictive zone.”
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3.3 Other observations

- i. During joint committee inspection, it is observed that a septic tank of reported capacity of about 96.0 m3 was constructed by the Mouje Nande Gram Panchayat on the bank of Mula River. Upon verification of detailed block contour survey map of Mula River prepared by the Water Resource Dept., Pune Irrigation Circle, Pune, Govt. of Maharashtra that the said construction of septic tank is within the Blue line of Mula River.
- ii. The joint committee referred the circular of the State Govt. of Maharashtra, Water Resource Department, Govt. Circular No. PuRaNi-2018/(182/2018) Sin. Vya. (Revenue), dated 03/05/2018, read with Govt. Circular No. FWD-1089/243/89/Sin Vya (Works), dated 21/09/1989. Wherein, the aforesaid circular was issued regarding demarcation of flood lines to prohibit any type of construction inside the flood lines. Copy of the aforesaid circular vide dated 03/05/2018 is given at Annexure-7. Also, translated version of the aforesaid circular vide dated 03/05/2018 from Marathi to English, as submitted by the Applicant in his petition is given at Annexure-7 A. The relevant paragraph of the aforesaid circular vide dated 03/05/2018 is reproduced as follows:

“...5. Prohibitive Zone: The area between the Blue Flood line on the right bank of the river to riverbed to the Blue Flood line on the left bank of the river shall be called as Prohibitive Zone...”

“...6. Restrictive Zone: The area between the Blue Flood Line of the river and the Red Flood Line on the same bank shall be called as Restrictive Zone...”

“...7. Prohibitive Zone can be used only in the form of open land e.g. gardens, play grounds, light crops; where there is established easement right to take crops (e.g. water melons, musk melons etc. public toilets and sewage discharge facilities), so that there will not be any obstruction to the flow of the river, there will not be reduction in the carrying capacity of the river and there will not be any change in the cross section of the river...”

“...8. Restrictive Zone should be used only for the following:

- i) Sewage carrying projects unavoidable in public interest.
 - ii) Public roads unavoidable in public interest; provided the top level of such road shall be above the level of Blue Flood line.
 - iii) Water supply pipe lines, gas pipe lines, drainage pipe lines unavoidable in public interest provided such pipe lines shall be under ground and will not cause obstruction in the cross section of the Restrictive Zone.
 - iv) The plinth level of the ground floor of the buildings in Restrictive Zone shall be safely above the level of Red Flood line so that the people could be evacuated to safe location before the flood level rises in the Restrictive Zone and it will be possible for the people and cattle to shift urgently to safe location with their belongings to avoid the loss of life and property due to floods...”
- iii. Hence, in view of the above circular; the said construction of septic tank by the Mouje Nande Gram Panchayat is prohibited as the said construction falls within the Blue line of Mula River. Further, the joint committee referred various judgments/orders of the Hon'ble Tribunal wherein action have been taken against illegal construction raised in the prohibited zone and the same is given below:

- a) Hon'ble NGT in OA no. 281 of 2019(PB) in the matter of Mahadevapura Parisara Samrakshane Mattu Abhivrudhi Samiti vs Union of India & Ors. passed an order vide dated 30/07/2021 regarding the violation of provisions relating to wetlands and Rajakaluves, and constructions raised in the buffer zone or surrounding area of Kaikondarahalli Lake. Relevant extract of the paragraphs of the aforesaid order vide dated 30/07/2021 are reproduced below;

“...155. Hence, in view of order already passed on 09.05.2019 based on the report submitted by First Joint Committee, we allow Original Application, i.e., OA No. 281/2019. Order for taking necessary action against PP, Ramesh Kumar as well as demolition of constructions illegally raised on the disputed site, are maintained and reiterated. The respondents competent authorities shall proceed in accordance with law to enforce environmental laws by initiating prosecution, demolishing the structures, illegally raised, if not, already demolished, restore land to its original position, make assessment of cost of restoration and damage to environment, assess environmental compensation against PP-Ramesh Kumar and realize the same in accordance with law, if not already done, expeditiously and in any case within 3 months from the date of this judgment...”

“...321. We impose compensation for damage to environment as 10% of the cost of project. The cost of project mentioned in the application submitted for grant of EC was 310 crores, hence PP is directed to pay 31.00 crores. This amount shall be used for demolition of the constructions as per direction (ii), restoration of the area to the original position, rejuvenation and reforestation etc. of the “Kaikondarahalli Lake” and its

surrounding area. PP shall deposit the amount within one month with the State Wetland Authority...

- b) Hon^{ble} NGT in OA no. 41 of 2019 (WZ) in the matter of Federation of River Residency Cooperative vs Pimpri Chinchwad Municipal Corporation & Ors. passed an order vide dated 30/01/2020 regarding construction of Sewage Treatment Plant (STP) by the Pimpri-Chinchwad Municipal Corporation (PCMC) in the area between the river bank and Blue Flood Line of the Indrayani River, which is a prohibited zone. Relevant extract of the paragraphs of the aforesaid order vide dated 30/01/2020 are reproduced below;

"...9. Having regard to the facts and circumstances set out above, we have no hesitation in holding that the questioned STP has been constructed within the prohibitive zone and, apart from the fact that the PCMC did not have the necessary Consent to Establish, the structure (STP in the present case) besides having been raised at a location which is not suitable for construction of STP, is also obstructing the natural flow of the river during the rainy season..."

"..10. As a consequence, we direct the PCMC to immediately demolish the STP in question and take steps to construct one at some other suitable site in accordance with law. The entire exercise shall be carried out within a period of one month under the strict supervision of the MPCB and the Irrigation Department, Government of Maharashtra.."

"..11. Since, during the construction of the STP severe damage was caused to the environment and ecology of the area, we direct the MPCB to assess the ecological damage by taking scientific support of experts and recover the same from the PCMC.."

Some of the photographs taken during the joint committee inspection is given at **Annexure-8**.

4.0 Conclusions

The joint committee carried-out inspection of the alleged area under reference on 24/08/2022. Thereafter, detailed analysis of the area under reference and based on the decisions taken during the said visit, the joint committee opined that most of the information required for compilation & report preparation has to be obtained from different agencies viz. PMRDA, Irrigation Dept. and Land Revenue Dept., Accordingly, a questionnaire was prepared and forwarded to the above concerned agencies with a request to submit desired information. Thereafter, several follow-up communications were during 24/08/2022, 15/09/2022, 04/10/2022, 10/10/2022 & 11/10/2022 & during November, 2022 respectively besides regular telephonic follow-ups, with a request to submit the desired information. Accordingly, the joint committee is in receipt of desired information from the concerned agency i.e. PMRDA through MPCB on 22/11/2022. Based on the desired information received, the joint committee compiled the information and prepared the report.

The alleged construction of approach road to the proposed residential project doesn't fall within the Blue Line of Mula River. Further, as per G.R. framed by water resource department Govt. of Maharashtra Circular No.

PuRaNi-2018/(182/2018) Sin. Vya. (Revenue), dated 03/05/2018 Para no.8 point no. (ii) public road is permitted in restrictive zone. However, due to such construction of approach road (by increasing the height of road by backfilling) is affecting the flow of surface run-off from agricultural lands into riverine system during rainy season and resulting in pondage of water in agricultural lands. In order to avoid pondage of water in alleged agricultural lands and to ensure effective drainage of surface run-off, suitable cross drainage should be provided at appropriate locations.

Further, the gabion walls constructed with natural aggregates for percolation and to surpass flood water into riverine system is located within the Blue Line of Mula River.

Septic tank constructed by the Mouje Nande Gram Panchayat is located between the river bank and blue flood line of Mula River, which is a prohibited zone. Hence, the said construction done in the blue flood line of Mula River should be immediately removed.

5.0 Recommendations

- i. *In view of the above w.r.t. construction of approach roads:*
 - a) *Cross drainage structure should be constructed by the project proponent under the supervision of PMRDA at appropriate locations at low lying areas at nalah portion for collection & drainage of surface-run-off into riverine system.*
- ii. *Considering the information provided by Irrigation Department, Govt. of Maharashtra and Orders passed by Hon'ble Hon'ble NGT in similar matters i.e. prohibiting the constructions made between the river bank and blue flood line of the Indrayani River' and also the construction raised in the buffer zone of water bodies, the joint committee recommends the following for kind consideration of the Hon'ble Tribunal:*
 - a) *Demolish the construction of septic tank illegally raised by the Mouje Nande Gram Panchayat in the area, affected by prohibited blue flood line of the Mula River."*

5. This report was considered by us in our earlier order dated 16.01.2023, in which it is mentioned that since the reliance was placed on a map prepared by the Irrigation Department in the year 2018, based on which the dispute has been raised that road is constructed within the blue line, the Joint Committee was further directed to verify, as to whether the averments made in the objection to the above effect were correct in the light of the documents, which have been relied upon by the applicant and whether the road in question was situated within blue line of river Mula or not?

6. In pursuance of that order, the Joint Committee has submitted its 2nd report dated 13.04.2022, relevant portion of which is quoted herein below:-

“Based on the joint committee report submitted, the applicant has filed objections in the form of affidavit and requested the Hon’ble NGT to verify the blue line of the area under reference through the joint committee. Thereafter, the matter was heard by the Hon’ble NGT on 16/01/2023. Hon’ble NGT directed vide order dated 16/01/2023 (copy of Hon’ble NGT order, dated 16/01/2023 is given at Annexure-1) and relevant paragraphs of the Hon’ble NGT order is reproduced as below:

“4. Since the reliance is being placed on a map prepared by the Irrigation Department in the year 2018, based on which the dispute has been raised that road is constructed within the blue line, we direct the Joint Committee to verify as to whether the averments made in the objection to the above effect are correct in the light of the documents, which have been relied upon by the Applicant, particularly whether the road in question is situated within blue line of Mula or not? We would also like to enlarge the Joint Committee by adding one Representative of Respondent No. 3/Irrigation Department in the said Committee.

5. Therefore, we direct that the Joint Committee would visit the site on a specified date, information of which shall be given to the Applicant in advance so that he may remain present on the date of inspection and the said Committee shall submit its report within a period of 15 days along-with a map distinctly showing the position of the road as to whether the same is lying within the blue line of Mula River or not.”

In compliance to the aforesaid Hon’ble NGT order dated 16/01/2023, the nodal agency i.e. MPCB vide email dated 03/02/2023 communicated to the joint committee members including the applicant regarding the scheduled inspection of the joint committee on 14/02/2023. The following joint committee members were present during the inspection:

- i. Shri Nishchal C., Scientist ‘D’, CPCB, Regional Directorate, Pune*
- ii. Shri Nitin Shinde, Sub-Regional Officer, MPCB, Pune-II*
- iii. Shri Rajendra Dhodapkar, Executive Engineer, Pune Irrigation Department-Pune*

Also, Shri Arun B. Kadam, Nahib Tahsildar – Mulshi, Shri Andhale, Surveyor – Pune Irrigation Department-Pune and Shri Sandeep, Field Officer – MPCB were accompanied the joint committee during the inspection. Also, the Applicant i.e. Shri Mahesh Kashinath Ranawade, was present during joint committee inspection.

2.0 Observations and findings

This report is outcome containing factual and action taken report of the said joint committee based site inspection, survey report submitted by the Pune Irrigation Department-Pune through the nodal agency i.e. MPCB and subsequent discussions of the joint committee. The observations & findings of the joint committee are given as below:

The joint committee along with the applicant and representatives from various State Govt. agencies carried-out detailed inspection of the area under reference on 14/02/2023 especially the alleged construction of road parallel to the River Mula up to the proposed project being developed by M/s Urban Life Ventures. Subsequently, survey of the area under reference was carried-out by the Pune Irrigation Department-Pune on the specified date in presence of the applicant. Thereafter, the same was superimposed on the map prepared by the Water Resource Dept., Pune, dated 07/02/2018.

Based on the survey report submitted by the Pune Irrigation Department-Pune vide letter no. PB-1/NGT OA No. (57/2022)/08/2023, dated 21/02/2023 (copy of the report dated 21/02/2023 is given at Annexure-2), the relevant extract of the report is reproduced as below:

“..Red line and blue line demarcation of Mula river clearly mentioning the blue and red line Reduced Levels (R.L.) and discharge calculations of Mula river from Mulhsi dam to confluence of mula and Mutha river near College of Engineering Pune are approved by Hon. Chief Engineer (WRD), Water Resource Department, Pune (Dtd: 07/02/2018). Joint committee inspection was done on 14/02/2023. In front of Joint committee Members and applicant representatives the survey was done in survey number 1/2/2 village Nande. With reference to survey carried-out of approach road constructed in murum filling. The road demarcation is superimposed on the drawing prepared and sanctioned by Water Resource Department on dt. 07/02/2018 specifying the chainages of road with blue and red line marking with respect to their levels as follows:

Chainage		Length (Meter)	Remark
From	To		
27/048	27/128	80 M	Outside Blue and Red line area
27/129	27/450	321 M	Inside Blue and Red line area

Thus the area lying inside and outside of blue line is marked on map and enclosed for further action.”

3.0 Conclusions

Based on the survey carried-out at the area under reference by the Pune Irrigation Department-Pune and subsequent superimposition of the same on the drawing prepared & sanctioned by Water Resource Department, dated 07/02/2018 that the alleged construction of approach road (by murum filling) by M/s Urban Life Ventures lies inside the blue & red line area from the chainage 27/129 to 27/450 i.e. the total length of the alleged road constructed inside the blue & red line of Mula River is 321 m. Corresponding earmarking of the aforesaid chainage of road constructed on the map prepared by Water Resource Department, dated 07/02/2018 is given at Annexure-2. Based on the above survey report, it is observed that out of total length of 401 m approach road constructed along parallel to the bank of Mula River, 321 m length of approach road constructed by Mrs Urban Life Ventures is inside the blue & red line area of Mula River. Hence the joint committee opined that suitable decision may be taken in this regard. as deemed fit by the Hon'ble NGT.”

7. It is apparent from the 2nd report that the Committee found 321 mtrs. length of the road to be lying inside blue and red line area of Mula river. This opinion has been expressed based on a map of the Water Resource Department dated 07.02.2018, which has been annexed as Annexure -2.

8. From the side of respondent No.6/Mr. Aditya Aniruddha Deshpande and respondent No.7/Mr. Gaurav Suhas Katariya, reply affidavit dated 22.07.2022 has been filed, where-in it is submitted that the land in question is owned and possessed by the answering respondents. The part of the land, on which the existing road lies, comes under the project land, which is being used by owners, adjoining farmers and villagers commonly. The answering respondent had carried out necessary repairs on the said road within the permissible height of the existing level as per PMRDA Development Control Planning Regulations (DCPR- 2018) to make the road motorable. There is no adverse effect caused to the agricultural fields or to the environment. No illegal construction of road on the bank of Mula River has been carried out at the site and the said road was in existence even prior to the finalization of the red line and blue line by the Irrigation Department.

9. It is further submitted in the affidavit by the respondent Nos.6 & 7 that the part of the existing road falls in the blue line of Mula River and no illegal construction is being carried out in the blue line. As per DCPR, use of already existing road is permissible within the blue line as the same is not restricted to be used as road.

10. It is further submitted in the affidavit by the respondent Nos.6 & 7 that as per the Development Control Planning Regulations (DCPR)- 2018, construction of parking, open vegetable market, garden lawns, open space,

cremation and burial ground, sewage treatment plant, water/ gas/
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drainage pipe lines, public toilet or like uses within river bank and red/blue flood line may be permitted at a plinth height of 0.45 m. above red/blue flood line level of Irrigation Department.

11. From the side of respondent No.4/MPCB, reply affidavit dated 13.01.2023 has been filed, which contains the same facts, which have been mentioned in the Joint Committee Report as the MPCB was one of the Members of the said Committee.

12. From the side of applicant, rejoinder affidavit dated 13.01.2023 has been filed, where-in it is submitted that the respondent No.3/Khadakwasala Irrigation Department had published a map of blue line on its website, a copy of the same is annexed as Exhibit "A" Colly. After perusal of the said map, it clearly shows that the Joint Committee without verifying the map has wrongly come to conclusion that the respondent No.6 to 9/PP made construction of road outside the blue line of river Mula (this appears to have been submitted with respect to the 1st Joint Committee Report).

13. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that the Joint Committee wrongly mentioned that only 4 cm distance was there between Red line and Blue line in the disputed area. It is also wrongly mentioned the distance of blue line at Survey No. 74 instead of S. No. 1 of Village: Nande, Taluka: Mulshi, District: Pune, in order to misguide this Tribunal regarding deviation of blue line by mentioned fixed point at different survey number. In fact, the construction of road carried out by the respondent Nos.6 to 9 is at location of blue line R.L. 558.750 and Red Line 558.790 i.e. only 4 cm difference is observed. In fact, the said location has no concern with the construction of road carried out in Survey No. 1.

14. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that the Joint Committee submitted a hand sketch map of road passing from the disputed area at page no 3. of the said report, which shows the road passing behind the metal sheet shed but in fact the said road is passing from front side of the said metal shed. The applicant has taken photo of aerial view of the said position which clearly shows that the road is not passing as per photo submitted by the Joint Committee. The same is annexed as Exhibit-“C” Colly. But we do not find any sketch drawn by the Joint Committee, although earlier photographs are found to be there, which are given by the applicant.

15. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that as per Map of Red and Blue line of Mula river published by Respondent No 3/Khadakwasala Irrigation Department, it clearly shows that blue line is situated beyond the electric polls erected in the Survey No.1 and the construction of road is carried out in the inner area of the blue line, which has been considered by the Joint Committee. The respondent No.3 with help of authorized surveyor M/s. Ajinkya Surveyors & Engineers visited the said Survey Number and demarcated the blue line of the Mula river, which is annexed as Exhibit – “E” Colly.

16. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that respondent Nos.6 & 7 have disclosed brochure of their project, which was put up at the time of obtaining environment clearance certificate, which revealed that all the construction of road is within the blue line but failed to disclose the same. A copy of the same is annexed as Exhibit "F". It is further submitted that at the time of inspection, Joint Committee never carried out any measurement nor verified the measurement given in map on the spot.

17. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that the Joint Committee observed that the Grampanchayat has constructed septic tank of the capacity of about 96.0 m³, which was constructed within blue river line and shockingly neglected the construction of big boundary wall made by respondent No.6 & 7 adjacent to the said plant.

18. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that the Government of Maharashtra, Urban Development Department, Mantralaya, Mumbai published gazette on 05.08.2019, as per which area between the river bank and blue flood line (flood line towards the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground or like uses, provided that redevelopment of the existing authorized properties within river bank and blue line may be permitted, subject to condition that plinth height of the building shall not be less than 0-45 m. above the Reduced Level (RL) of Red flood line and after obtaining the NOC from Irrigation Department. It is further mentioned that though the respondent Nos.6 to 9 have stated in their affidavit that road was in existence and was being used by the villagers and farmers since long, but as per the gazette dated 03.05.2018, essential road for public purpose is allowed in restrictive zone as is specified in para no.8(ii) of the said Circular. It is also mentioned that PMRDA cannot grant permission for the proposed road within the blue line.

19. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that the Joint Committee has admitted that the construction of road was going on the spot but failed to point out whether the same was within blue line of the Mula river? It is further submitted that the Joint Committee ought to have mentioned the fact that heavy debris was

dumped for the road construction on the spot but the same has been purposefully neglected. It is admitted position that the construction of road was going to be carried out by dumping debris on the bank of river by the respondent No.6 to 9 without any permission from the Competent Authority. The Joint Committee has also failed to compute the environmental compensation on account of damage caused to the environment due to illegal construction. It is further submitted that respondent No.6 to 9 have closed the road by constructing boundary wall from western side of the applicant's agricultural land. Around 500 to 600 local residents are doing agricultural activities, who wholly depend upon the river Mula, which now has been restrained.

20. It is further submitted in the rejoinder affidavit dated 13.01.2023 by the applicant that the Google Earth Arial views dated 23.04.2009, 15.01.2013, 13.01.2015, 29.04.2018 & 19.12.2021 would indicate that before making complaint by the applicant in the month of March 2022, there was no road available on the spot. On account of illegal and unauthorised construction of Township Project by the respondent Nos.6 & 7 on the banks of river Mula, the river route has been deviated, therefore, penalty of at least Rs.5 Crores for not obtaining prior permission from the Competent Authority and exemplary damages of minimum 10% of the project cost should be realized from the Project Proponent, in terms of the Judgment delivered by the Hon'ble Supreme Court in Goel Ganga's Case. It is further mentioned that an independent Committee should be constituted, in order to ascertain the correct facts or in alternative, the Joint Committee be directed to verify the blue flood line map of Village: Nande with map of respondent No.3/Irrigation Department.

21. From the side of respondent Nos.6 & 7/Private Respondents, reply affidavit dated 27.11.2022 has been filed, where-in it is submitted that the

road was in existence for use of the villagers and farmers since long. The river belt, blue/red flood line are marked and finalized by the Irrigation Department in the year 2019 and it is further reiterated that as per the Government Circular dated 03.05.2018, essential road for public purpose is allowed in restrictive zone. Thereafter, we find that all the facts, which are mentioned herein, appear to be nothing but reiteration of the earlier averments mentioned above, hence the same need not be reproduced here. Although it is added in this affidavit that the applicant is trying to extort money from the respondent Nos.6 & 7.

22. The Joint Committee through respondent No.4/MPCB has submitted Maps of Irrigation Department, Pune with the title as “Detailed Block Contour Survey Map of Mula River Village: Chande, Nande, Maan, Hinjewadi, and Mhalunge” and further the same is requested to be read along-with the Joint Committee Report filed on 13.04.2023.

23. From the side of respondent No.5/PMRDA, reply affidavit dated 18.05.2023 has been filed, where-in it is submitted that it has not granted any Commencement Certificate, building permission, revision for revalidation for the construction of road and/or the project in question herein.

24. On the basis of above pleadings, we are framing following issues for determination:-

- (i). Whether the road alleged to be under construction is lying within the blue line of river Mula?
- (ii). Whether the construction of the said road is going to affect adversely the agricultural fields of the applicant and other agriculturists in nearby area?
- (iii). Relief, if any?

25. **Issue No.(i):** As per this issue, we have to decide as to whether the road alleged to be under construction is lying within the blue line of river Mula. In this regard, we have to rely upon the Joint Committee Report dated 13.04.2022, which clearly mentions that 321 mtrs. long portion of the road is lying within blue line of the river Mula and the relevant Map of the Irrigation Department has also been enclosed in support thereof. Against this report, there is no objection filed by any one. Therefore, this report is taken to be correct and we also rely on this report. Based on this, we hold that the road, which is alleged to have been constructed/under construction, lies in blue flood line of the river Mula. We decide this issue accordingly.

26. **Issue No.(ii):** As per this issue, we have to decide as to whether the construction of the said road is going to affect adversely the agricultural fields of the applicant and other agriculturists in nearby area. In this regard, we would like to rely on the Circular issued by the Water Resource Department, State of Maharashtra dated 03.05.2018, relevant part of which is quoted herein below:-

“.....
.....

5. Prohibitive Zone

The area between the Blue Flood line on the right bank of the river to riverbed to the Blue Flood line on the left bank of the river shall be called as Prohibitive Zone.

6. Restrictive Zone:

The area between the Blue Flood Line of the river and the Red Flood Line on the same bank shall be called as Restrictive Zone.

7. Prohibitive Zone can be used only in the form of open land e.g. gardens, play grounds, light crops; where there is established easement right to take crops (e.g. water melons, musk melons etc. public toilets and sewage discharge facilities), so that there will not be any obstruction to the flow of the river, there will not be reduction in the carrying capacity of the river and there will not be any change in the cross section of the river.

8. Restrictive Zone should be used only for the following:

- (i). *Sewage carrying projects unavoidable in public interest.*
- (ii). *Public roads unavoidable in public interest; provided the top level of such road shall be above the level of Blue Flood line.*
- (iii). *Water supply pipe lines, gas pipe lines, drainage pipe lines unavoidable in public interest provided such pipe lines shall be under ground and will not cause obstruction in the cross section of the Restrictive Zone.*
- (iv). *The plinth level of the ground floor of the buildings in Restrictive Zone shall be safely above the level of Red Flood line so that the people could be evacuated to safe location before the flood level rises in the Restrictive Zone and it will be possible for the people and cattle to shift urgently to safe location with their belongings to avoid the loss of life and property due to floods.*

.....
”

27. As per the opinion expressed by the Joint Committee, it is clear that the road in question is found to lie in blue flood line of river Mula, therefore, certainly, it would fall in Prohibitive Zone as per above-mentioned Circular. In para no.7 of the said Circular the activities, which are permissible, are also enumerated, which incorporate parking, gardens, play grounds, light crops etc., which would not be any obstruction in the flow of river nor would they result in any reduction in the carrying capacity of the river, hence there will not be any change in the cross section of the river.

28. Now, in the light of above provision, we have gone through the Map prepared by the Irrigation Department, which is annexed with the 2nd Joint Committee Report, where-in we find that River bed level is 549 mtrs. and Road level is 557.4 mtrs. It would reflect that the road is at the height of about 8.4 mtrs. from the river bed, which is quite a height. Further, this Map would indicate that from the Centre line of river, the road would be at a distance of about 120 mtrs. approx. Therefore, there is very remote possibility that the level at which the road is being constructed/has

already been constructed would obstruct river flow or would reduce carrying capacity of river.

29. In addition to the above, we would also like to take assistance from the Unified Development Control and Promotion Regulations for Maharashtra State (UDCPR) dated 30.01.2023, where-in at point 3.1.3, following is laid down:-

3.1.3 Construction within Blue and Red Flood Line

- i). *Where Blue and Red flood line are marked on the Development Plan / Regional Plan or received from the Irrigation Department.*
 - a) *The Red Flood Line and Blue Flood Line shall be considered as per the plan prepared by the Irrigation Department. The area between the river bank and blue flood line (Flood line near the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water / gas / drainage pipe lines, public toilet or like uses, provided the land is feasible for such utilization. Provided that, redevelopment of the existing authorised properties, within river bank and blue flood line, may be permitted at a plinth height of 0.45 m. above red flood line level.*
 - b) *Area between blue flood line and red flood line shall be restrictive zone for the purposes of construction. The construction within this area may be permitted at a height of 0.45 m. above the red flood line level.*
 - c) *If the area between the river bank and blue flood line forms part of the entire plot in Development Zone, then, FSI of such part of land may be allowed to be utilised on the remaining land.*
 - d) *The red and blue flood line, if shown on the Development/Regional Plan / Planning Proposal shall stand modified as and when it is modified by the Irrigation Department.”*

30. Above provision makes it clear that between river bank and blue flood line of the river, the activities such as parking (which implicitly mean road), open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water/gas/drainage pipe lines, public toilet or like uses are permissible activities, provided that they are permitted at plinth height at 0.45 mtrs. above the red flood line level.

31. If we apply this provision, in the case in hand, the construction of road should be treated to be of public utility because the same would be used not only by the answering respondents but also by the local residents/villagers in the vicinity. The respondent Nos.6 & 7 have also stated in their affidavit that the said road was in existence since long, which is now only being repaired by them so as to make it motorable. They have nowhere stated that the same would not be used by the public and would be used exclusively by them. Hence, we would like to place a rider here that the road would not be obstructed from being used by the common people in the locality as it is being said to be for public use by the Project Proponents.

32. We further find in the 1st Joint Committee Report in the Conclusions part, where-in it recorded that construction of approach road (by increasing the height of road by backfilling) may affect the flow of surface run-off from the agricultural lands into riverine system during rainy season and it may result in stagnation of water in agricultural lands. In order to avoid this, it is suggested by the Joint Committee that suitable cross drainage should be provided at an appropriate locations. In the Map, which has been submitted with the 2nd Joint Committee Report, the proposal has also been made with respect to providing cross drains at two locations so that there does not happen any stagnation of water causing loss of the crop of agricultural field of the people residing there. Therefore, we decide this issue to the effect that the said road is not going to adversely affect the agricultural fields of the applicant and other agriculturists.

33. **Issue no.(iii)**: We find that above suggestion given by the Joint Committee is very useful to be implemented, in the case in hand, by the answering respondents in order to resolve the problem.

34. In view of above analysis made by us, we dispose of this application with the following directions:-

- (i). The road, which has been constructed/in the process of being constructed, shall be a public road to be used by all local residents along-with the Project Proponents.
- (ii). The Cross drainage, which are proposed to be set up by the Joint Committee, shall be set up under the supervision of PMRDA/respondent No.5 at appropriate locations in the low lying area at nallah portion for collection and drainage of surface run-off into riverine system before opening the road for the use of public.
- (iii). In case the Project Proponents i.e. respondent Nos.6 to 9 violate any of the above directions, the applicant would have liberty to approach us for seeking appropriate relief.
- (iv). If any permission is required under law for making such kind of road construction from PMRDA or any other local authority, the same may also be taken forthwith before proceeding with the work.

35. All pending applications, if any, also stand disposed of. No cost.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 21, 2023
Original Application No.57/2022(WZ)
I.A. No.61/2022(WZ) & I.A. No.103/2023(WZ)
P.Kr.