

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

**I.A. NO. 65 OF 2021**

**IN**

**ORIGINAL APPLICATION NO. 28 OF 2020**

Sarang Yadwadkar & Ors ...Applicants

Versus

Pune Municipal Corporation & Ors ...Respondents

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Pralhad Paranjape

Advocate for the Respondent No. 6

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**AFFIDAVIT-IN-REPLY ON BEHALF OF THE  
RESPONDENT NO.6 – MAHARASHTRA METRO RAIL  
CORPORATION LTD. TO THE I.A. NO. 65/2021 IN O.A.  
NO. 28/2020**

I, Kumkum Mishra, the Senior AGM-Legal and authorised signatory of the Respondent No.6 – Maharashtra Metro Rail Corporation Limited having my office at Metro Bhawan, Opposite Deeksha Bhoomi, Ramdaspath, Nagpur 440010 do hereby state on solemn affirmation as under:

1. I say that I have perused the copy of the Interim Application preferred by the Applicants and have understood the contents



of the said Interim Application. In response thereto, on the basis of the documents and information available in relation to the said issue, I am filing this Affidavit-in-Reply in the present Interim Application.

2. At the outset, I deny each and every averment and allegation made in the present Interim Application, which is contrary to and/or inconsistent with what has been stated in the Affidavit-in-Reply filed to the Original Application No. 28 of 2020 and the present Affidavit-in-Reply and nothing stated in the present Interim Application under Reply shall be construed as an admission for the want of any specific and para-wise denial or non-traverse unless and until the same is specifically admitted hereinafter. I crave leave to refer to and rely upon the pleadings taken by the answering Respondent in the OA and other IAs as a part and parcel of the present Affidavit-in-Reply.
3. In the present Interim Application, the Applicants are again seeking an early hearing of the Original Application No. 28 of

2020. At the outset it is submitted that the answering Respondent has filed a detailed reply to the Original Application No 28 of 2020. There was a rejoinder filed to it by the Original Applicants only on 16 August 2021 and on 17 August 2021 the Hon'ble National Green Tribunal directed the Original Applicant to withdraw the same. Hereto annexed and marked as **Exhibit "1"** is a copy of the Order dated 17 August 2021.

4. In the reply filed by the Answering Respondent to the Original Application, the entire sequence of events leading to the filing of the third OA has been set out in detail including the details of the Metro alignment in Pune. The answering Respondent has also filed reply to IA No. 83 of 2020 in OA 28 of 2020 filed by the Applicants seeking a stay to the project. The Hon'ble NGT has also in its order dated 28 September 2020 made it clear that there cannot be a stay on the project.
5. Thereafter, the Original Applicant has preferred another Interim Application No 13 of 2021 in OA 28 of 2020 for stay



and to which the answering Respondent has preferred a reply. The answering Respondent submits that it has also brought on record the fact that the Expert Committee recently on 8 March 2021 has considered the impact of the Central Water and Power Research Station (CWPRS) Report of January 2021 and has given its recommendations on 12 May 2021. The answering Respondent submits that it is ready and willing to abide by the recommendations given by the Expert Committee on 12 May 2021 which has been formulated in accordance with the judgment of the NGT dated 3 August 2018 and which has been so approved by the Supreme Court. Briefly stated, the Expert Committee has stated that the project work can be continued by the answering Respondent.

6. I say that on 17 August 2021, the Hon'ble NGT has heard the matter and after hearing preliminary submissions, the Hon'ble NGT has now kept the matter on 6 October 2021. The answering Respondent has also preferred Interim Application



No 126 of 2020 seeking recall/modification of the order of the NGT dated 7 July 2020.

7. The answering Respondent submits that the contents of paragraphs nos. 1 & 2 of the present IA under response are denied. The answering Respondent repeats and reiterates its response in relation to the CWPRS Report as filed.
8. The contents of paragraphs nos. 3,4 and 5 of the present IA under response are denied. The correct factual situation and position has been stated by the answering Respondent in its responses filed in the matter.
9. The answering Respondent submits that the Applicants are in the habit of filing multiple Applications. The answering Respondent has nowhere brought on record before the Hon'ble NGT that for the very same reliefs the Applicants had preferred a Public Interest Litigation No. 15 of 2021 before the Hon'ble High Court at Bombay and on 17 August 2021, it was incumbent for the Original Applicant to bring on record the

Mrs. Kumkum Mishra  
Sr. AGM (Legal)  
Maharashtra Metro Rail Corp. Ltd.





**VERIFICATION**

I, Kumkum Mishra, the Senior AGM Legal and authorized representative of the Respondent No.6, having my office at Metro House, 28/2 Anand Nagar, C. K. Naidu Marg, Civil Lines, Nagpur - 440001, do hereby state on solemn affirmation that the contents in Para 1 to 10 hereinabove are true and correct based on information and documents and official records and I put the signature thereof.

Solemnly affirmed at

Dated this 28 August 2021

Identified by me

Before me

SWORN BEFORE ME ON THIS 28<sup>th</sup> DAY OF Aug 2021 AT NAGPUR BY SHRI / SMT. Kumkum Mishra R/O NAGPUR WHO HAS BEEN IDENTIFIED BY SHRI / SMT. [Signature] ADVOCATE, NAGPUR.

NOTARIAL REG.  
ENTRY No. 2305  
DATE 28/08/2021



[Signature]  
Mrs. S. R. MATTA  
ADVOCATE & NOTARY  
918/3, Clarke Tower Nagpur-1



**Exhibit "1"**

Item No. 01

(Pune Bench)

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

(By Video Conferencing)

Original Application No. 28/2020(WZ)  
I.A. No. 83/2020 (WZ), I.A. No. 126/2020 (WZ), I.A. No.  
13/2021 (WZ), I.A. No. 14/2021 (WZ) & I.A. No. 22/2021 (WZ)

Sarang Yadwadkar &amp; Ors.

Applicant

Versus

Pune Municipal Corporation &amp; Ors.

Respondent(s)

Date of hearing: 17.08.2021

**CORAM: HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

Applicant: Mr. Ritwick Dutta, Advocate, Mr. Maitreya Ghorpade, Advocate  
Respondent: Mr. Prahlad D Paranjape, Advocate for R-1(PMC)  
Ms. Mansi Joshi, Advocate for R-4  
Mr. S. K. Mishra, Sr. Advocate along with Mr. Kaustubh Deogade,  
Advocate, Mr. Gore, Advocate behalf of Mr. R. B. Mahabal, Advocate for  
R-6  
Ms. Supriya Dangare, Advocate for R-8

**ORDER**

1. The Original Applicant has filed the repudiation to the affidavit filed in reply, filed by Respondent No.6 dated 16.06.2021.
2. Admittedly, it was filed at the last moment.
3. The Learned Counsel appearing for the Applicant on instructions, seeks the permission of this Tribunal to withdraw the Rejoinder dated 16.08.2021.
4. Accordingly, the rejoinder dated 16.08.2021, is withdrawn.
5. Heard the preliminary submissions of Learned Counsel appearing for the Original Applicant, Learned Counsel appearing for Respondent No.1 and Mr. S. K. Mishra, Learned Senior Counsel assisted by Mr. Kaustubh Deogade, Learned Counsel appearing for the Respondent No.6.

6. It is relevant to extract the conclusions of the minutes of the 7<sup>th</sup> Meeting dated 08.03.2021 held up under the Chairmanship of Divisional Commissioner, Pune, which is as follows:-

“

- i. *The maximum afflux (rise in water level) for the 100,000 cusecs and 60,000 cusecs due to introduction of Metro piers have been estimated as 216 mm at Metro pier no.P152and 241 mm at pier no. DE 1 respectively.*
- ii. *This increase in water level results in incremental increase in inundation. Inundation is the spread of the water along both banks (i.e. left bank +right bank).*
- iii. *For the discharge of 100,000 cusecs the incremental increase in inundation would be insignificant (0.02 m) in the reach between Shivaji Bridge and Shinde Bridge. In the reach between Shinde Bridge and Metro pier DE 8 incremental increase inundation varies between 0.02 to 10m. Further from DE8 to Baba Bhide bridge the incremental inundation varies from 2.6 to 10.94 m(i.e. about 5 m on either bank).*
- iv. *At the three locations i.e. P159, P160 and Z Bridge the inundation is 22.2 m 20.6 and 29.8 respectively. The incremental inundation extent 55.76 m at pier no P167 due to specific topography at this location. There is a low level cross road connecting the river front road and Kelkar road at this location. Water is spreading along this road and hence the higher inundation extent at this particular location was observed.*
- v. *The incremental increase in inundation extent for 60,000 cusecs in the reach between Shivaji Bridge and Shinde Bridge is insignificant (0to 0.01m). In the reach between Shinde Birdge and Metro pier DE8 varies between 0 to 2.27 m. From DE8 to upstream of Baba Bhide bridge is 2.27 to 11.44 m. At two locations i.e. P162 and P163 is 10 to 11.4 m.( i.e. 5 to 5.6 m on either bank).*
- vi. *Appropriate mitigation measure to be adopted to reduce the inundation extent at critical points.*
- vii. *The Irrigation Department has demarcated the redline for a discharge of 100,000 cusecs and blue line for discharge of 60,000 cusecs in year 2011. The expert committee is of the opining that the Red line and Blue line to be redefined by the competent authority taking into account the recent developments along the river reach.*
- viii. *The CWPRS scientist highlighted in their presentation that the contribution of discharge from the local catchment downstream of the Khadakwasla dam to Sangam Bridge will only yield about 8,500 cusecs corresponding to the discharge of 90,000 cusecs. Therefore, in the worst-case scenario the total discharge will not breach 100,000 cusecs. Also, the spillway design capacity of Khadakwasla dam is 97,000 cusecs only.*

- ix. *The CWPRS scientist has also pointed out that in the last 56 years the discharge of 60,000 Cusecs has only been breached four times and the 100,000 cusecs has not been breached even once, so scenario for breaching the 100.000 cusec discharge would be a rare.*
- x. *It was referred that the Irrigation Department and the Smart City project both have robust flood alarm and evacuation system to avoid loss of life and property. The Smart City Project has already identified the flood prone locations and areas to, where people will be moved in case of floods. This has been tested during the floods of 2019.*
- xi. *The CWPRS has stated that they have submitted their final report based on the available data. If there would be any further requirement, CWPRS can take up additional studies.*

*The expert committee has pursued that Maharashtra Metro Rail Corporation through Central Water and Power Research Station (CWPRS) have conducted all studies and submitted reports as directed by the committee. Maha Metro is taking utmost care during construction of Project and complying all the guidelines issued by Expert Committee. There is no impediment in proceeding with work by Maha Metro.”*

7. The Learned Senior Counsel appearing for Respondent No.6 has invited the attention of this Tribunal to paragraph no.4 of the affidavit in reply on behalf of the Respondent No.6 in I.A. in O.A. No. 28/2020 dated 16.06.2021 and would submit that whatever suggestions made in the report, would be adhered to and also prays for short accommodation to advance arguments in this matter.

8. Call on 06.10.2021.

M. Sathyanarayanan, JM

Dr. Arun Kumar Verma, EM

August 17, 2021  
Original Application No. 28/2020(WZ)  
I.A. No. 83/2020 (WZ), I.A. No. 126/2020 (WZ),  
I.A. No. 13/2021 (WZ), I.A. No. 14/2021 (WZ)  
& I.A. No. 22/2021 (WZ)JG

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**AFFIDAVIT IN REPLY**

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Dated 28 August 2021

Pralhad Paranjape  
Advocate for the Respondent No. 6  
116, Motlibai Wadia Bldg.  
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Mumbai 400 001.