



**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE  
ORIGINAL APPLICATION NO. 28 OF 2020**

Sarang Yadwakar & Ors. ...Applicants

Versus

Pune Municipal Corporation and Ors. ...Respondents

**AFFIDAVIT-IN-REPLY ON BEHALF OF THE  
RESPONDENT NO.6 – MAHARASHTRA METRO RAIL  
CORPORATION LTD. TO THE DOCUMENT TITLED AS  
LIST OF DATES AND EVENTS OF THE APPLICANTS  
RECEIVED ON 15 NOVEMBER 2021:**

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 on 15 November 2021, the Applicants have served upon the answering Respondent a document styled as List of Dates along with a copy of submergence map prepared by the Applicants purportedly highlighting additional submergence caused due to the impugned Metro project.



2. At the outset, the answering Respondent submits that nothing stated in the said Application including the list of dates, sequence of events, narration of the events, interpretation of the orders, interpretation of minutes of meetings of the Expert Committee, interpretation of the orders passed by the Tribunal and the interpretation of the Central Water and Power Research Station Report shall be deemed to have been admitted by the answering Respondent for the want of any para wise or specific non traverse or denial.
  
3. At the further outset, the answering Respondent submits that it has already filed a detailed reply to Original Application No. 28 of 2020 on 25 September 2020, it has also filed a reply to Interim Application No. 83 of 2020 on 25 September 2020, it has filed an Interim Application No. 126 of 2020 on 29 October 2020, it has filed reply to Interim Application No. 13 of 2021 on 16 June 2021, reply to Interim Application No. 14 of 20201 on 16 June 2021 and reply to Interim Application No. 22 of 2021 on 16 June 2021. The answering Respondent submits that in all pleadings filed by it before this Hon'ble Tribunal it has placed on record the importance of Pune Metro project, the alignment of Pune Mero project as notified under the Metro Railways (Construction of works) Act, 1978, correct narration of facts, history of previous Original Applications filed by the same Applicants, the orders passed by this Hon'ble

Tribunal and the Apex court in relation to the matter, minutes of Expert Committee meetings as appointed by Hon'ble Tribunal, report of the CWPRS as received by the answering Respondent, recommendations of Expert Committee on the said report of CWPRS and all other necessary and required documents. The answering Respondent craves leave to refer to and rely upon the said pleadings as a part and parcel of the present reply for the sake of brevity and to avoid repetition.

4. In the document styled as list of dates and received on 15 November 2021, the Applicants have in fact in paragraph no. 8 sought the following:

*“that therefore it is submitted that this Hon’ble Tribunal may accordingly reconsider the order dated 3.08.2018 in light of the above-mentioned facts and circumstances, including the January 2021 CWPRS Report which clearly assesses the present and correct river cross sections and river widths, as well as the Submergence Map which clearly elucidates that approximately 30 acres of thickly populated urban areas in Pune city will be submerged”*

5. The Applicants have also filed an affidavit along with the said list of dates. In the said document styled as list of dates, there are various incorrect assertions, submissions, incorrect interpretation of the data provided by the answering



Respondent, incorrect interpretation of the mathematical model studies for river Mutha conducted by the CWPRS in their Report No. 5886 as well as an incorrect analysis of the minutes of Expert Committee Meetings held under the Chairmanship of the Hon'ble Divisional Commissioner. All the said assertions, allegations and submissions as made by the Applicants are denied by the answering Respondent. The Applicants are also seeking a relief of reconsideration of the earlier judgment dated 3 August 2018 passed by this Hon'ble Tribunal in the Original Application No 130 of 2018 (earlier Original Application No 67 of 2018) which is not permissible considering the facts and circumstances of the present case and thus the prayers of the Applicants cannot be granted.

6. Considering the averments, assertions and prayers as sought by the Applicants, the answering Respondent has filed the present reply to the document styled as list of dates especially in response to the sequence of events and incorrect interpretation of various factual matrix by the Applicants in the present document styled as list of dates which was received by the answering Respondent only on 15 November 2021.
7. The contents of paragraph nos 1, 2 and 3 of the document titled as list of dates include background sought to be given by the Applicants and the details of the final report of the CWPRS.

The contents of the said paragraphs also include events which have been given in sequence of the Applicants' preference and the narration of the same is denied. The correct sequence of events has already been provided by the answering Respondent in its pleadings filed in the present Original Application. At the cost of repetition, the answering Respondent craves leave to refer to and rely upon the same as a part and parcel of the present reply.

8. The answering Respondent submits that the list of dates also includes two RTI Applications filed by the Applicants on 11 August 2021 and on 8 September 2021. The answering Respondent submits that an erroneous question was asked by the Applicant No 1 under RTI and to which the answering Respondent has clearly provided a response stating that there was no data in relation to the same.
9. The contents of paragraph no. 4 of the document titled as list of dates which deal with a submergence map prepared by the Applicants to show and demonstrate the areas affected by additional submergence which is likely to be caused due to construction of the impugned metro project within the river bed. The contents of the said paragraph including the veracity of the submergence map is denied by the answering Respondent. It is submitted that the Metro Project has been



carried out with utmost care for the environment and by following all the safety parameters as required.

10. The contents of paragraph no. 5 of the document titled as list of dates, including the submergence map and the pleadings stating that the map would demonstrate that approximately around 30 acres in densely populated areas in Pune city is likely to be submerged by the metro piers are denied. The answering Respondent submits that time and again it has been submitted as pointed out by the CWPRS report also that in the last 56 years the discharge of 60,000 cusecs had only been breached 4 times and that discharge of 1,00,000 cusecs had not been breached even once. At this stage reference is drawn to the letter dated 24<sup>th</sup> August 2021 sent by the answering Respondent to CWPRS (@pg 837 of Additional Affidavit filed by answering Respondent dated 5 October 2021) and the reply dated 1 October 2021 of CWPRS to the Answering Respondent (@pg 838 of the Additional Affidavit). A bare perusal of the same will show that the answering Respondent had asked specifically from CWPRS the reason for such a spread of 55.76m at P-167 as opposed to 3.16m at P-166 and 1.23m at P-168 at a discharge of 1,00,000 cusecs (Table no. 7 of the CWPRS Report) and it was explained that due to the natural topography of the place in view of an existing road at the cross section of the right bank which connects the low

bank of upstream and downstream cross sections except for the road width and during floods i.e. only if there is 1,00,000 cusecs discharge, then the waters will spread along the connecting road upto the road level where the water surface elevation meets, leading to a high water spread. Having said that, it is submitted that the project is an essential project for meeting the needs of the population and for providing an important mode of commutation in Pune.

11. The answering Respondent submits that in pursuance to the clarification dated 1 October 2021, received from CWPRS about the high water spread, the answering Respondent wrote a letter dated 4 October 2021 to the Commissioner, Pune Municipal Corporation (@pg 839-846 of the Additional Affidavit) seeking inputs on whether the existing retaining walls could be increased appropriately to contain the water spread at P-159, P-160 and Z-Bridge. It has also been clarified in the letter to PMC that the said constriction of the wall would permanently block the access to Kelkar Road. However, the response from PMC to the above said letter is still awaited.

12. The contents of paragraph no. 6 of the document titled as list of dates that the submergence map prepared by the applicants



is based on the CWPRS Report and that it would go on to show that there is incontrovertible evidence of the fact that the Expert Committee Report on which the order of this Tribunal in Original Application No 130 of 2018 dated 3 August 2018 was relying upon, was in fact incorrect and erroneous are denied. The answering Respondent submits that the veracity of the submergence map as prepared by the Applicants is denied by the answering Respondent since there is no verification by a Competent Expert about the submergence map and the Applicant is no expert of the field.

13. The contents of paragraph no. 7 and 8 of the document titled as list of dates that the Expert Committee has substantially underestimated the cross sections and river widths and this has led to a dilution of the severity of the impact of the impugned project on flooding of thickly populated areas in Pune city are denied. It is submitted that the CWPRS has already submitted a Report on the basis of correct data analysis and therefore the assertions of the Applicants in that context are denied. The CWPRS Report clearly goes on to show that the impugned project is a sustainable project and the Expert Committee has also specifically stated that there is no impediment in proceeding with the work by the answering Respondent.

14. In any case, as opposed to the allegation of the Original Applicant, the water spread at Metro Pier No 167 which was

shown to be 55.76 m at a discharge of 1,00,000 cusecs (Table no 7 of the CWPRS Report) is only a contingency wherein the discharge is at 1,00,000 cusecs and such a large discharge has never occurred in the last 56 years.

15. The answering Respondent also submits that the judgment and order dated 3 August 2018 passed by the NGT cannot be reconsidered and thus the prayers of the Applicants in paragraph no 8 are denied.

P.D.P

Pralhad Paranjape

Advocate for Respondent No 6

### 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 15 hereinabove are true and correct based on information and documents and official records and I put the signature thereof.

Solemnly affirmed at

Dated this 4 January 2022

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



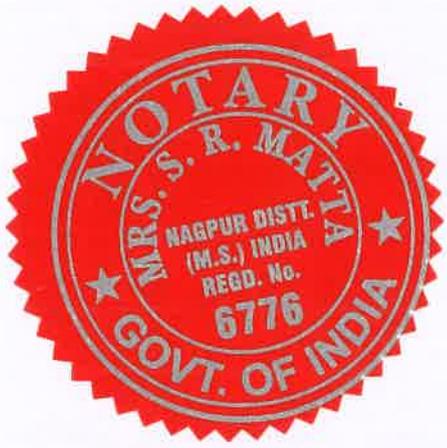
NOTARIAL REG.  
ENTRY No. 309  
DATE 21/1/2022



SWORN BEFORE ME ON THE 4<sup>TH</sup> DAY OF Jan 2022 AT NAGPUR BY SHRI / SMT/ KU. Kunkum Mishra. R/O NAGPUR WHO HAS BEEN IDENTIFIED BY SHRI / SMT. Pralhad Parayre, ADVOCATE, NAGPUR.

*[Handwritten Signature]*

Mrs. S. R. MATTA  
ADVOCATE & NOTARY  
91B-B, Clock Tower Nagpur



Mrs. Kunkum Mishra  
Sr. ADM (Legal)  
Maharashtra Metro Rail Corp. Ltd.