

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE**

**I.A. No.83 of 2020**

**IN**

**ORIGINAL APPLICATION NO. 28 OF 2020 (WZ)**

Sarang Yadwadkar & Ors ...Applicants

Versus

Pune Municipal Corporation & Ors ...Respondents

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*P.D.P.*

Advocate for the Respondent No.6



3. I say that in order to place true and correct factual position especially relating to the recommendations of the Expert Committee constituted by the Hon'ble NGT and the necessary steps taken by the answering respondent in accordance with the said recommendations made by the Expert Committee I have already filed a separate and detailed affidavit-in-reply. I crave leave to refer to and rely upon the contents of the said affidavit-in-reply as a part and parcel of the present affidavit-in-reply. I also crave leave to file a detailed and para-wise response if the Hon'ble Court deems necessary. I repeat and reiterate that I deny the contents of the Interim Application especially those as regards the impact of the metro pillars, submergence of metro pillars at low discharge levels, about the discharge in cusecs during the monsoons, and about the veracity of the other similar allegations made as also as regards other related allegations.

4. I say that the Applicant has preferred the present Interim Application seeking the following reliefs:

*It is, therefore prayed that this Hon'ble Tribunal may be pleased to:-*

a. *Grant an Ad-Interim stay on the construction of the metro construction till a fresh hydrodynamic study, fresh flood frequency analysis, hydrologic analysis and revised afflux and submergence calculation due to metro construction is carried out in terms of para 6 of the Expert Committee report;*

b. *Grant exemption to the Applicant from notarising the affidavit due to the Covid-19 pandemic;*

*In light of the above facts and submissions, this Hon'ble Tribunal may be pleased to pass any other orders as they may deem fit and proper in facts and circumstances of the case.*

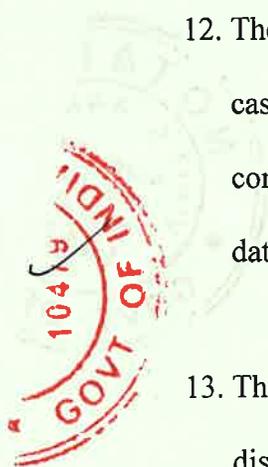


5. I say that the present Interim Application is filed by the Applicant on an incorrect premise that 50% of the metro piers submerged during the 2019 floods when 45,474 cusecs water was released from the upstream dam. The Applicant has in his Interim Application also incorrectly claimed that submergence of piers this year began merely at the release of 9,416 cusecs and 13,981 cusecs of water. I say that the said statements are refuted as being without any basis or any scientific material. The case of the Applicant thus is that pending submission of various reports that have been sought by the Expert Committee, a stay/injunction be granted based on the "Precautionary Principle" against construction of the Metro project as the Applicant apprehends flooding in the City of Pune due to construction of the Metro project.
6. In response to the same, I say that as stated in the Affidavit-in-reply filed in the Original Application, various recommendations have been given by the Expert Committee and the actions taken in pursuance of the said recommendations has been stated by the answering respondent in the said affidavit-in-reply. I crave leave to refer to and rely upon the same. I say that the reliefs as prayed for of injunction ought not to be granted as the answering respondent has taken various steps to deal with the same.
7. I say that the contents of paragraph No.1 to 6 do not deserve any response. I say that Annexed at Exhibit 10 of the Affidavit-in-reply is a copy of the Minutes of Meeting of the Expert Committee held on 24/9/2020 and contents of the said Minutes of meeting have been addressed herein above. The Expert Committee has categorically held that the answering Respondent has provided information and followed the recommendations given by the Expert Committee.
8. With reference to contents of paragraph No.7, answering Respondent stats that the Expert Committee has after going through various data submitted by MMRCL



opined that the Metro project can continue and thus the balance of convenience lies in favour of the answering Respondent. Thus no case for an injunction is made out and thus the contents of paragraph No.7 and the Judgments relied upon will have no bearing upon the case at hand.

9. With reference to contents of paragraph No.8 and 9, the said contents are denied as being incorrect. The answering Respondent states that the Metro project is in the public interest and the apprehension of flooding is unfounded. The Expert Committee has considered all the aspects pertaining to impact of discharge of 60,000 cusecs and 1,00,000 cusecs and after considering the same has been pleased to note in its Minutes of Meeting dated 24/9/2020 that the Metro Project can go on. Only the CWPRS final report is awaited and which will be presented by 15/11/2020 and thus there is no impediment in continuing with the Metro Project.
10. The Judgments cited in Paragraph No.10 and 11 do not apply to the case at hand and hence as such do not deserve any response.
11. The contents of paragraph No.12 are denied as being incorrect and wrong. The answering Respondent has addressed the aspects herein above. The contention that irreparable loss would be caused to the environment is denied as being incorrect and wrong.
12. The contents of paragraph No.13, 14 and 15 are denied as being inapplicable to the case at hand for the various reasons stated herein above. The balance of convenience lies in favour of the answering Respondent. The minutes of meeting dated 24/9/2020 also establish that it is safe to continue with the metro project.
13. The contents in paragraph No.16 as regards 50% submergence of metro piers at discharge of 45,474 cusecs is denied as wholly incorrect and wrong. The further



contention that submergence began at mere release of 9,416 cusecs and 13,981 cusecs in the year 2020 are also denied as being incorrect and wrong. The answering Respondent states that study findings for discharge of 1,00,000 cusecs were provided to the Expert Committee and the Expert Committee after going through the same has been pleased to permit the answering Respondent to continue with the project.

14. The Judgments in paragraph No.17, 18 and 19 do not apply to the case at hand and hence do not deserve and response.

15. The contents of paragraph No.20 do not deserve any response.

16. Thus it is submitted that the reliefs sought by the Applicant in the Interlocutory Application ought not to be granted for the preliminary reason that the Original Application has been filed on a misconceived notion that the final report has been prepared and infact the Expert Committee is yet to prepare a final report which will be based on the date supplied by the answering respondent and by the CWPRS which is still awaited. The threat as perceived by the Applicant is misconceived.

17. In view of all of the above, the answering Respondent states that, the present Interim Application being devoid of merits and premature and based on an incorrect premise, ought to be dismissed.



Solemnly affirmed at Mumbai )

Dated this 25 September 2020 )

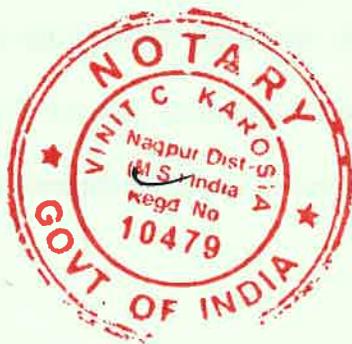
P.D.P.

Advocate for the Respondent No.6

Respondent No.6  
**Mrs. Runkum Mishra**  
 AGM (Legal)  
 Maharashtra Metro Rail Corp. Ltd.



**NOTARIAL REG.**  
ENTRY NO. 2352  
DATE: 25/9/2020



SWORN/SOLEMNLY AFFIRMED  
BY: As above

WHO IS PERSONALLY/KNOWN  
TO ME /IDENTIFIED BY: \_\_\_\_\_

As above

BEFORE ME THIS THE \_\_\_\_\_  
DAY OF 25/9/2020  
AT NAGPUR

  
**V C KAROSIA**  
NOTARY  
DIST NAGPUR (M.S.) INDIA

Notary Public  
(Legal)  
Vinit C. Karosia

