

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO 28 OF 2020 (WZ)**

Sarang Yadwadkar & ors

... Applicants

Versus

Pune Municipal Corporation & ors

... Respondents

COMPILATION OF ORDERS ON BEHALF OF RESPONDENT NO 6 - MMRCL

Sr No	Date	Particulars	Pg No.
1.		Original Application No 67 of 2016 (subsequently renumbered as OA No. 130 of 2018) preferred by the Applicant in the National Green Tribunal (WZ)	1-28
2.	13 October 2017	Interim order passed by the Hon'ble NGT in Original Application No 67 of 2016 (WZ) (subsequently renumbered as OA No. 130 of 2018) appointing an Expert Committee	29-45
3.	18 September 2017	Order passed by the Hon'ble Supreme Court in Civil Appeal No 14941 of 2017 holding that there was no stay to the metro project	46-47
4.	3 August 2018	Order passed by the Hon'ble NGT in Original Application 130 of 2018 disposing of the Original Application	48-58
5.	15 February 2019	Order passed by the Supreme Court in Civil Appeal (Diary Nos) 41286/2018	59-61
6.	7 July 2020	Order passed by the Hon'ble NGT in Original Application No. 28 of 2020 constituting another Expert Committee	62-63
7.	26 August	Order passed by the Hon'ble Bombay High Court in	64-65

	2021	Public Interest Litigation No 15 of 2021 dismissing the PIL filed by the Original Applicant	
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Pralhad Paranjape

Advocate for the Respondent No.6

RPAD

BEFORE THE NATIONAL GREEN TRIBUNAL - WESTERN ZONE BENCH, PUNĀ

Sarang Yadwadkar
Vs
The Pune Municipal Corporation

To

1. The Pune Municipal Corporation
Through The Municipal Commissioner
Shivajinagar, Pune - 411005
Respondent No. 1
2. The Divisional Commissioner,
Pune Division . . .
Council Hall, Camp Pune - 411001
Respondent No.2
3. The Joint Director,
Town Planning Department,
Government Of Maharashtra,
Central Building - Pune - 411001
Respondent No. 3
4. Urban Development Department,
Government of Maharashtra
Through Principal Secretary, Urban Development (I)
Mantralaya
Mumbai; Maharashtra 400032
Respondent No. 4
5. The Ministry of Urban Development,
Through the Secretary, The Ministry of Urban Development,
Government of India,
Nirman Bhavan, New Delhi - 110011
Respondent No. 5
6. Managing Director,
DMRC Ltd.
Metro Bhawan, Fire Brigade Lane
Baraknamba Road, New Delhi - 110001
Respondent No. 6
7. Maharashtra Pollution Control Board,
Regional Office, Jag Center, 3rd floor,
Mumbai Pune Road,
Wakdawad!, Pune - 411003
Respondent No. 7
8. The Maharashtra State Biodiversity Board
Jaiwivividhta Bhavan, Civil Lines,
Nagpur - 440001
Respondent No.8

NOTICE

1. Please take notice that the above titled Application is posted for hearing on 07.7.2016 at 10.30 AM in the premises of National Green Tribunal, Western Zone Bench, Pune, National Administrative Building, 'D' Wing, 1st Floor, Opp. Council Hall, Camp, Pune.
2. Please note that you shall make yourself available, or represent through authorized legal representative, on the date and place indicated herein above, in default, the said application will be heard and determined in your absence.
3. Given under my hand and the seal of this Tribunal, this the 03.06.2016.



Assistant, NG

Encl

Copy of Application No.67/2016 Vol 1 & Vol 2

(For Orders, Cause Lists & other information, please visit our website www.greentribunal.gov.in)

मुख्य अभियंता (प्रकल्प) कार्यालय

पुणे महानगरपालिका

अपयक्त क्र. : १३६६ दिनांक: १०/६/१६

मुख्य अभियंता (प्रकल्प)

पुणे महानगरपालिका

पर्यावरण कक्ष उद्यान कार्यालय

पुणे महानगरपालिका

आयक क्र. पर्या: ५६

दिनांक : १६-६-१६

उद्यान कार्यलय
पुणे महानगरपालिका

आ.क्र. १५२.१.६६६६

मुख्य उद्यान अधिकारी

जी. दिगे (e.o)

महापालिका आयुक्त कार्यालय
पुणे महानगरपालिका
आयक क्रमांक २२०३
दिनांक ७ JUN 2016

या मुद्द्याबाबतची सूचना
या मुद्द्याबाबतची सूचना
यांजकडेस पुढील तजविजीसाठी
सविनय सादर..

अधिकारी

महापालिका आयुक्त कार्यालय
पुणे महानगरपालिका

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (NGT)
ZONAL BENCH AT PUNE

APPLICATION UNDER SECTIONS 14, 15, 18, 19 and 20 OF
THE NATIONAL GREEN TRIBUNAL ACT 2010

Application No.: _____ /2016

In the matter of:

Sarang Yadwadkar
and others

Applicants

VERSUS

Pune Municipal Corporation
through the Municipal Commissioner
and others

Respondents

INDEX

Sr. No.	Particulars	Page Nos.
COMPILATION:1		
1	Application	1 to 22
2	Affidavit .	23 to 24

Pune.

Date: 19/05/2016.

-Asim Saorde

ASIM SAORDE AND ASSOCIATES
ADVOCATES FOR THE APPLICANTS
Flat No.1, Prathamesh CHS Lane No.5,
Prabhat Road,
Pune 411 004 (Maharashtra).

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (NGT)
ZONAL BENCH AT PUNE
APPLICATION UNDER SECTIONS 14, 15, 18, 19 and 20 OF
THE NATIONAL GREEN TRIBUNAL ACT 2010**

Application No.: _____/2016

IN THE MATTER OF:

1. Sarang Yadwadkar

Age: 57 Years, Occ.: Architect
R/at: A-9, Pradnyangad Apartments,
S. No. 119/3, Sinhagad Road,
Pune, 411030

2. Mrs. Arnavaz Aga, MP

Age: 73 Yrs., Occ.: Business,
Member of Parliament,
Boat Club Road,
Pune 411001

3. Mr. Dileep Padgaonkar ✓

Age: Yrs., Occupation: Journalist and writer
601 Hariyali, Modi Baug-II,
Ganeshkhind Road,
Pune - 411016Pune.

4. Mrs. Arti Kirloskar ✓

Age: 55 Yrs. Occupation: Artist
"Radha" 453, Gokhale Road,
Model Colony,
Pune. 411016

..... Applicants

VERSUS

1. The Pune Municipal Corporation

Through the Municipal Commissioner,
Shivajinagar, Pune 411005

2. The Divisional Commissioner,
Pune Division,
Council Hall, Camp, Pune 411001
3. The Joint Director,
Town Planning Department,
Government of Maharashtra,
Central Building, Pune 411001
4. The Urban Development Department,
Through the Principal Secretary, Urban Development (I)
Government of Maharashtra,
Mantralay, Mumbai 400032
5. The Ministry of Urban Development,
Through the Secretary, Ministry of Urban Development,
Government of India,
Nirman Bhavan, New Delhi 110011
6. The Managing Director,
DMRC Ltd.
Metro Bhawan, Fire Brigade Lane
Barakhamba Road, New Delhi 110001
7. Maharashtra Pollution Control Board,
Through the Regional Officer, Pune,
Jog Centre, 3rd Floor, Mumbai-Pune Road,
Wakadewadi, Pune 411003.
8. The Maharashtra State Biodiversity Board
Jaivavidhta Bhavan, Civil Lines,
Nagpur 440001

..... Respondents

Most respectfully submit as under:

- I. The address of the counsel of the Applicants is given for the service of Notices of this Application.

- II. The addresses of Respondents are given above for service of Notices of this Petition.
- III. The present application pertains to the proposed construction of 100' wide roads proposed in the Draft Development Plan of Pune and also the proposed construction of Metro and Metro stations both on Mutha and Mula-Mutha riverbeds inside the Blue flood line i.e. on Prohibitive Zone where no construction is allowed. The huge dumping/numerous huge RCC pillars and the massive construction of this road/Metro/Metro stations on the Prohibitive Zone of the river bed is bound to cause tremendous environmental, and ecological damage and the flood water may cause loss of life and property.
- IV. The Respondents have violated various laws and rules related to environmental protection such as Sec. 4(b), 25(a) r/w Sec. 2(e) (j) of the Water (Prevention and Control of Pollution) Act, 1974, the Biological Diversity Act, 2002 and other allied Environment and Pollution Laws r/w Article 21 of the Indian Constitution. In particular, they have violated the provisions of the circular dated 21 September 1989 (Annexure-1) issued by the State Gov. of Maharashtra through Irrigation Department which completely prohibits any construction whatsoever within the Prohibitive Zone of any river.
- V. The Applicants are well aware of the traffic woes being faced in the city and the need to have a good public transport system which may include buses, metro etc. The Applicants wholeheartedly support sustainable public transport systems and are not against Pune Metro. The Applicants sincerely want Pune to have a good and sustainable Metro. It is to be noted that whereas Pune Metro project comprises of two metro corridors, PCMC- Swargate and Vanaz - Ramwadi; the issues raised by the Applicants pertain only to one metro corridor (Vanaz - Ramwadi) and that too only a part of the corridor which has been planned on Prohibitive Zone of

river bed. The Applicants contend that the metro project should be executed in a way which will avoid any construction on the Prohibitive Zone of the river bed and other alternatives can be explored by Respondent no. 1, such as underground metro. Applicants strongly believe that it would not be wise and prudent to save money at the cost of increased floods, disasters, loss of person and property and irreversible damages to ecology and environment. It would be sensible to take precautions at this stage, even at the cost of rational expenses rather than to face (manmade) calamities and irreversible damages to environment.

- VI. This Petition is filed under sections 14, 15, 17 and (20) of The National Green Tribunal Act 2010 since it involves substantial questions relating to environment and social safety.

BRIEF FACTS OF THE CASE

1. Respondent No.1 is the Pune Municipal Corporation, headed by the Municipal Commissioner. It is the authority responsible for planning, execution of public works and provision of services and operates inter alia under the Maharashtra Municipal Corporations Act.
2. Respondents No. 1, 2 and 3 are the members of the committee appointed by the State Govt. of Maharashtra to prepare the Draft Development Plan ("DP") of Pune city (old limits) for submission to the State Govt. for final approval.
3. Respondent No. 4 i.e. Urban Development Department of the Govt. of Maharashtra has control over all local governing bodies and all state departments which are responsible to protect the natural heritage and resources of the state and ensure sustainable and balanced development by issuing directions under the provisions of the Maharashtra Regional and Town Planning Act, 1966
4. Respondent No. 5 i.e. The Ministry of Urban Development, Government of India is the nodal authority that monitors the

development of all urban areas in India including the implementation of major projects. The Government of India is also the final approving authority for the Pune Metro project.

5. Respondent No. 6 i.e. the Delhi Metro Rail Corporation (DMRC) Ltd, a joint venture of the Government of the National Capital Territory of Delhi (GNCTD) and the Government of India, prepared the Detailed Project Report ("DPR") of the Metro project in Pune. They are responsible for proposing the massive structures of Metro and stations on the riverbed.
6. Respondent No. 7 is Maharashtra Pollution Control Board which is expected to implement various environmental legislations in Maharashtra, mainly the implementation of Water (Prevention and Control of Pollution) Act, 1974, provisions mentioned in Environmental Protection Act, 1986 and the Rules framed there-under etc.
7. Respondent No. 8 is the Maharashtra State Biodiversity Board whose function is to advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity as prescribed under the Biological Diversity Act 2002.
8. The Applicants are law abiding citizens of India. They are socially motivated persons having faith in sustainable development through the Hon'ble National Green tribunal. One of the petitioners, Mrs. Arnavaz Aga is a Member of Parliament, who was awarded Padmashri for her exemplary work in the social sector. Shri. Dileep Padgaonkar is a highly distinguished journalist and former editor of the Times of India. Mrs. Arti Kirloskar is involved as board member and trustee in various social organizations and environment initiatives.
9. The Applicants are filing this case as a precautionary measure considering the anticipated actions of Respondent No.1, to avoid possible environmental damage and financial losses to the public.

exchequer) by invoking Section 20 of the NGT Act 2010 which specifically says, "The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle."

10. Applicants would prefer to refer to the decision given by Hon'ble Principal Bench of NGT in the case between The Goa Foundation Anr. vs Union of India Ors. in M. A. No. 49 of 2013 in Application No. 26 of 2012. In the said decision, in Para 42, Hon'ble Principal Bench has mentioned,

"Under the scheme of the Act, an anticipated action will also fall within the ambit of the jurisdiction of the Tribunal. Section 20 of the NGT Act provides that, while deciding cases before it, the Tribunal shall take into consideration the three principles – principle of sustainable development, precautionary principle and the polluter pays principle. The precautionary principle would operate where actual injury has not occurred as on the date of institution of an application. In other words, an anticipated or likely injury to environment can be a sufficient cause of action, partially or wholly, for invoking the jurisdiction of the Tribunal in terms of Sub-sections (1) and (2) of Section 14 of the NGT Act. The language of Section 20 is referable to the jurisdiction of the Tribunal in terms of Sections 14 and 15 of the Act. The precautionary principle is permissible and is opposed to actual injury or damage. On the cogent reading of Section 14 with Section 2(m) and Section 20 of the NGT Act, likely damage to environment would be covered under the precautionary principle, and therefore, provide jurisdiction to the Tribunal to entertain such a question. The applicability of precautionary principle is a statutory command to the Tribunal while deciding or settling disputes arising out of substantial questions relating to environment. Thus, any violation or even an apprehended violation of this principle would be actionable by any person before the Tribunal. Inaction in the facts and circumstances

of a given case could itself be a violation of the precautionary principle, and therefore, bring it within the ambit of jurisdiction of the Tribunal, as defined under the NGT Act. By inaction, naturally, there will be violation of the precautionary principle and therefore, the Tribunal will have jurisdiction to entertain all civil cases raising such questions of environment. Such approach is further substantiated by the fact that Section 2(c), while defining environment, covers everything. Section 2(m) brings into play a direct violation of a specific statutory environmental obligation as contemplated under Section 5 of the Environment Act as being substantial question relating to environment. These provisions, read with Section 3(1) and Section 5 of the Environment Act, which place statutory obligation and require the Government to issue appropriate directions to prevent and control pollution, clearly show that the legislature intended to provide wide jurisdiction to the Tribunal to deal with and cover all civil cases relating to environment, as stated by the Supreme Court, in the case of S.A.L. Narayan Row & Anr. v. Ishwarlal Bhagwandas & Anr. (AIR 1965 SCC 1818). The character of the proceedings is normally not with reference to the relief that the Tribunal can grant but upon the nature of the right violated and the appropriate relief which can be claimed."

11. In O. A. No. 2/2013, Hon'ble Quorum of Principal Bench, National Green Tribunal (NGT), New Delhi passed an Order/Judgment on 11/07/2013. (Relevant portion of the Judgment is attached as Annexure-2) The Judgment comprehensively discusses multiple aspects including importance of development and risk of floods including damage to environment due to implementation of the project, presented and argued by Applicants as well as Respondents. The following clear and unequivocal directions were issued in that case:

No encroachment is permitted and no construction in future is permitted on and (inside the blue line of the river Mutha.

and

There shall be (no) restriction to the free flow of the river water.

12. The said judgment speaks elaborately at Page 39-40, Para 36:

"It is very important to avoid environmental damage and in the interest of ecology, flood plains are maintained properly. As the flood plains provide important ecological services like ensuring flow in streams for most of the year through modulation of river-discharge by conserving huge flow of water derived from peak flow and storm runoff during the rainy season and releasing it gradually; recharge the ground water and improve its quality, besides flood plain produce resources like fodder, fuel and timber. Also these provide breeding and feeding ground for fish, reptiles, amphibians, birds and other living creatures in addition to improving water quality through retention and transformation of nutrients and other chemicals. These services or benefits would be adversely affected by any encroachment of the flood plain."

14. WIDE ROADS ON RIVERBED

13. The Maharashtra Regional and Town Planning Act (MRTP Act) 1966 is the governing Act for formulation of the Development Plan (DP) of any city in Maharashtra. The MRTP Act while specifying the contents of any Development Plan, categorically mentions in Section 22 (j), "proposals for flood control and prevention of river pollution." (Annexure-3). This undoubtedly means that components that control floods and prevent pollution of rivers should necessarily be an integral part of the DP. The same section also specifies that the Development Plan shall provide for the "preservation of places of natural and scientific interest" and the "preservation, conservation and development of areas of natural scenery and landscape". Section

63(1b) of the Maharashtra Municipal Corporations Act, 1949 specifies one of the obligatory duties of the Corporation as "*protection of the environment and promotion of ecological aspects*". It is therefore amply clear that the protection of all natural ecosystems within the jurisdiction of the Respondent No. 1 i.e. Pune Municipal Corporation; is an obligatory duty and the Environment (Protection) Act, 1986 is but an advanced expression of the same principles espoused in the aforementioned Acts that control and direct the actions of the Municipal Corporation.

14. The ~~Draft~~ DP of Pune City, (old limits) 2007-2027 was prepared and published by Respondent No. 1 under relevant clauses of MRTP Act 1966. Further, the State Government took over the entire process of the DP and appointed a 3-member committee to prepare and submit the Draft DP to the state government for finalisation. The members of the committee were:

- i) Commissioner, Pune Municipal Corporation i.e. Respondent No. 1
- ii) Divisional Commissioner, Pune Division i.e. Respondent No. 2

and

- iii) Joint Director, Town Planning i.e. Respondent No. 3

This 3-member committee prepared the Draft DP for the Pune city (old limits) published it under Section 28 (4) of the MRTP Act 1966 and forwarded it to the State Government for further approval.

In spite of the specific guidelines mentioned in the MRTP Act and unambiguous directives issued by Hon. National Green Tribunal in their Order Dt. 11/7/2013 to shift the riverbed road beyond flood lines ~~to ensure~~ natural flow of the river and to protect the flood plains, with explicit direction saying, "no construction in future is permitted on and inside the blue line of the river Mutha", it is utterly shocking that Respondents No.1, 2 and 3 have proposed 100' wide roads in the Draft DP right on the riverbed inside the Blue flood line. Proposed Development Plan of Pune prepared by the 3-member committee (*Annexure-4*) shows the roads planned on the riverbeds. The roads

are planned from the Naidu Sewage Treatment Plant (STP) around Bund Garden Bridges, Kalyani Nagar Bridge and beyond.

16. It would be extremely important in this context to refer to an objection letter sent by Irrigation Dept. to PMC (Annexure-5). The letter categorically says, "No construction is allowed on the Prohibitive Zone below the Blue Line." Further the letter says that the flood line/flood control maps are already given to the Pune Municipal Corporation on 05/03/2011. It is crucial to superimpose the flood lines on the DP maps and accordingly plan necessary flood control measures in the DP. In spite of these clear directions from the Irrigation Dept., which is responsible to control dam discharges, Respondent Nos. 1, 2 and 3 have not superimposed the flood lines on the maps but proposed 100' wide roads on the riverbeds.
17. The Irrigation department has repeatedly objected the proposal of the riverbed roads as shown on the sheet No. 6, 7 and 8 of the DP maps (Annexure-6). The Superintending Engineer, Pune Irrigation Circle sent a letter dated 18/9/15 to the Divisional Commissioner (who is heading the 3-member Draft DP committee). The letter is accompanied by a note at Sr. No. 14, which categorically mentions the strong objection of the Irrigation Dept. on the said riverbed roads highlighting the directions issued by Hon'ble NGT in case No. 2/2013. The note also further emphasizes the need to mark flood lines on the DP maps of Pune city.
18. In spite of all these repeated letters from the Irrigation Dept., the three member committee i.e. Respondents No. 1, 2 and 3 have intentionally neglected to give required logical consideration to the contents of the letters and continued with the proposal of the riverbed roads which are below blue line i.e. on the Prohibitive Zone.
19. Respondents No. 1, 2 and 3 have also proposed a 120' wide road with a traffic island on Mutha riverbed inside Blue Line on Prohibited Zone right below Mhatre Bridge. The sheet No. 8 (part) of the Draft

DPR published w/s 28(4) shows the road and the traffic island (Annexure-7).

20. As on today there are many roads wrongfully built by Respondent No. 1 by way of dumping huge amounts of debris in the riverbed on the Prohibited Zone below the Blue Line. These roads frequently submerge under water even if there is discharge of 60,000 Cusecs from Khadakwasla Dam. Photographs showing these roads submerged are attached (Annexure-8).

METRO WITH METRO STATIONS ON RIVERBED

21. As if the 100' wide roads on the riverbed is not enough, Respondent No. 1 has also proposed a Metro (oute) including Metro stations right on Mutha riverbed.

- From the description and map given in the DPR prepared by Respondent No. 6 i.e. DMRC for Respondent No. 1 i.e. PMC, it is evident that the Metro line enters the Mutha riverbed behind Savarkar Smarak on Karve Road. The alignment then proceeds along the left bank of the river up to PMC Bhavan / Nava Pool and exits the riverbed thereafter to proceed towards Food Grain Godowns behind Civil Court. The Metro tracks cross the following bridges - Lakadi Pul, Z-bridge, Balgandharva Bridge, Tilak Bridge near PMC Bhavan and Nava Pul.
- Three Metro stations are also proposed on the riverbed at the following locations - Deccan, Sambhaji Park, Pune Municipal Corporation building.

The relevant part of "Final Detailed Project Report for Pune Metro, November 2015" is attached (Page Nos. 35, 39, 147 etc.) (Annexure-9)

22. Considering the topography of the riverbed and the development up to the edges of the river bank, there is no space left between Blue line and the existing development for any construction. Therefore, any

construction for Metro tracks or Metro stations, has to be on riverbed on Prohibited Zone within the blue line of the river (whether superimposed in the DP or not).

23. Metro lines will run on top of 10-metre wide viaduct (flyover like structure) supported on (numerous) huge RCC pillars. The entire viaduct structure of about 2 km length will be within the Blue line on "Prohibitive Zone".

24. The Metro stations will be supported on massive RCC pillars. The station structures will be huge multilevel buildings of total length 160 m with maximum width at concourse of 35 m and minimum width 16.5 m at the narrowest part. Three such Metro stations have been planned on the riverbed.

25. The Metro stations also need auxiliary systems and facilities like:

- Access for passengers from road level in the form of staircases,
- Lifts,
- Escalators,
- Foot over bridges,
- Wash rooms,
- Ticketing counters,
- Offices,
- Sale counters,
- Power backup systems,
- Store rooms,
- Waiting spaces,
- Air conditioning plants,
- Vehicular parking lots,
- Security screening facilities etc.

As there is no space left between the existing development and Blue flood line in this particular part of the river, the supporting structures for all above systems/facilities will have to be on the riverbed.

26. As per the Metro DPR, where the metro alignment has to be located away from road, a clearance of 3.5m on either side has to be kept all along the viaduct for road access and working space for working of emergency equipments and fire brigade. These so called access/service roads will obviously also be constructed on the riverbed.

27. On this background; it is imperative to refer to the letter regarding metro alignment written by the Commissioner PMC addressed to the Under Secretary, Ministry of Urban Development, Govt. of India on 12/2/2016 (*Annexure-10*). This letter throws light upon the thinking and the working style of Respondent No.1. The Commissioner in this letter says,

"This alignment runs along the left bank of the Mutha river which is totally elevated & roughly at 20-22 mtr. height from the riverbed & hence proposed elevated metro stations are also at this height. Requisite permissions can be obtained from the concerned departments after approval from Government of India.

Further, as per the NGT order dtd. 11th July 2013 refer point No. 38(c), it clearly states that, "the road/project shall be constructed on the elevated pillars alone in the area that falls within the blue line."

As per revised DPR, Nov 2015 price level the metro alignment for corridor II runs along the left bank of river between Sawarkar Smarak (Karve road) to PMC Building having length appx. 1.8 km which is on elevated pillars in confirmation with NGT order."

28. Applicants prefer to highlight certain portions of this letter in this context. Firstly, it stands accepted by the Commissioner that the Metro alignment indeed does run "along the left bank of the Mutha River". As there is no space left "along the bank of the river", it perforce has to be on the riverbed only. The Commissioner has also stated in the letter to the Ministry that, "requisite permissions can be obtained from the concerned departments after approval from Government of India". In light of the fact that the concerned

department, i.e the Irrigation department, has time and again informed the Corporation that "No construction is allowed on the Prohibitive Zone below Blue Line." Applicants apprehend that there could be manipulation and undue pressure brought on the Irrigation department to issue NOC once the Government of India approves the project. Another crucial fact is that the Respondent No. 1 is clearly misleading the Ministry by stating only the convenient portion of the NGT order which is not pertinent to the Metro project. The Commissioner has (deliberately) avoided to quote para 38(g) of the judgment which is pertinent to all future projects. The said para specifically says, "We also direct the said authorities to ensure that no encroachment is permitted and no construction in future is permitted on and inside the blue line of the river Mutha." Further the Commissioner has stated in the letter to the Ministry that the Metro alignment on elevated pillars is, in confirmation of NGT order though no such order for Metro project has been passed by NGT.

29. It is shocking to know that there is no information given in the Metro DPR regarding disaster management and possible rescue operation required in case of a Metro disaster in the riverbed, both under normal conditions and when the river is flooded. Emergency evacuation of passengers in the affected metro train is of ultimate importance. It is to be noted that road access to via duct on the riverbed will never be available for the movement of emergency vehicles and equipment. The delay in rescue due to complete absence of road access could result in major loss of lives.

IMPACTS OF PROJECTS

30. It is extremely important to understand that even if the riverbed roads or the road and traffic island below Mhatre Bridge or the Metro tracks or the Metro stations are constructed on RCC pillars, it will not be a construction across the riverbed at a single location, like a bridge, but along the river, for several kilometers, (causing) (continuous) (resistive)

obstruction to the natural flow of rivers. This would start hardly 10 Km. downstream of 4 dams with storage of 31 TMC and discharge of 1,28,899 CuSecs. Such impediment to the free flow of river will be an open invitation to natural calamities.

31. Pune city is surrounded by hills, with 6 dams on upstream side within 25-30 km. These dams; though they have independent catchments, are close to each other. If a cloud burst takes place even in one dam, it would rain heavily in all other dams too and Pune being at a very short distance would not escape from the torrential rains. Being surrounded by hills, storm water gushes down to the rivers through the city from all directions. In such a critical situation, if the dams start discharging water to the highest capacity, Khadakwasla dam alone would be releasing 1,28,899 CuSecs. Add to that discharge from other dams and the city would receive 2,50,000 CuSecs. through Mutha and Mula rivers. The situation will be further aggravated by the storm water gushing down from surrounding hills. In Pune there is only one outflow to this water, that is Mula-Mutha river. In short, if it rains heavily in or around Pune, due to its topographical position, the situation in Pune will be far more grave than even Chennai.

32. It is high time that we all learn a lesson from the disasters like those occurred not only in the states of Uttarakhand, Jammu-Kashmir and Tamilnadu (Chennai), but also in our neighbourhood like Mithi or Malin or Shindewadi etc. It is proved beyond ambiguity that all these disasters occurred only because of human interference in the natural storm water drainage systems. The most unfortunate part is that our local governments and other departments are not willing to learn anything from this immediate past.

33. It is a fact that Climate Change is a reality that has to be taken seriously. The Government of India has prepared a National Action Plan for Climate Change (<http://www.moef.nic.in/ccd-napcc>). One of the sub-missions, the National Mission for Sustainable Habitats recognizes "the need to adapt to future climate change by improving

- the resilience of infrastructure". Erratic and unpredictable weather patterns and increased occurrence of heretofore "once in 100 years" events are scenarios that must be planned for. Abundant precaution is now, more than ever, an absolute necessity and one of the prime responsibilities of planning agencies and an integral component of sustainable development.
34. On the background of ~~this~~ unique situation of Pune, any construction even if supported on columns, is certainly going to add to the already existing impediments to the natural flow of rivers.
35. Moreover, such massive constructions along the river for roads, Metro and huge Metro stations on prohibitive zone of riverbed involving movement and operation of heavy equipment, machinery, vehicles etc. in ~~the river~~ is bound to have various irreversibly adverse impacts on the river / riverbed; both during the prolonged construction period and also after completion in the course of regular Metro operation. Several of these impacts would be irreversible and permanent.
36. Thus even if the riverbed road or Metro tracks and Metro stations are constructed on RCC columns; it is bound to destroy the riparian zone completely defeating the basic intention behind the order of Hon'ble NGT. The importance of flood plains is elaborately described by Hon'ble NGT in the judgment in case No. 2/2013 (Refer Para No. 12 above).
37. It would be highly pertinent to mention here that the Development Plans of much smaller towns like Alandi and Wai, flood lines are marked on the DP maps. Unfortunately, it is a shame that in spite of repeated reminders and meetings, Respondent No. 1 has intentionally avoided marking the flood lines even in the latest DP maps.
38. There are many constructions proposed by Respondent No. 1 on the riverbeds at various places. Beating his chest Respondent No. 1 has usually vouched that all these proposals are in public interest to solve the chronic problem of Pune's traffic. It is extremely crucial in these

the resilience of infrastructure". Erratic and unpredictable weather patterns and increased occurrences of heretofore "once in 100 years" events are scenarios that must be planned for. Abundant precaution is now, more than ever, an absolute necessity and one of the prime responsibilities of planning agencies and an integral component of sustainable development.

34. On the background of this unique situation of Pune, any construction even if supported on columns, is certainly going to add to the already existing impediments to the natural flow of rivers.
35. Moreover, such massive constructions along the river for roads, Metro and huge Metro stations on prohibitive zone of riverbed involving movement and operation of heavy equipment, machinery, vehicles etc. in the riverbed is bound to have various irreversibly adverse impacts on the river / riverbed; both during the prolonged construction period and also after completion in the course of regular Metro operation. Several of these impacts would be irreversible and permanent.
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circumstances to note that till date no Environment Impact Assessment (EIA) study of any of the proposals has been done by the Respondent No. 1 which clearly shows the casual manner in which this serious matter is being treated by him.

39. Applicants and some concerned citizens have written umpteen letters to Respondent No. 1 mentioning all technical, environmental as well as legal aspects and implications of all such ill-planned projects and has also served a legal notice to this effect (*Annexure-11*). Unfortunately, Respondent No. 1 has preferred to remain silent on all issues discussed in the letters.

40. It is thus clear that Respondents No. 1 is bent upon exploiting the natural riverbeds to maximum extent in the most unscientific, anti environment and anti social ways, jeopardizing the safety of the citizens as also causing irreparable loss for the city, its natural heritage and environment. This act of Respondent No. 1 in connivance with other respondents is completely unconstitutional, illegal and unethical.

41. In the affidavit filed before the Hon'ble Principal Bench NGT in case No. 1/2013, in point No. 2 at page 2, the Commissioner, Respondent No. 1 clearly states, "No construction of building or land filling is allowed in the Green Belt within blue line." (*Annexure-12*). This affidavit was filed by none other than the Commissioner of Respondent No. 1 before the Hon'ble Principal Bench NGT without any prejudice and with a very clear mind set. Applicants want to highlight that proposing Riverbed Road, Metro route and massive Metro stations on the riverbed inside Blue line on Prohibitive Zone is a (dreadfully nefarious) act by Respondent No. 1 amounting to denial of all responsibilities to the existing legal systems of the Tāna.

GROUNDS

A. The Applicants are filing this case invoking the jurisdiction of the Tribunal in terms of Sub-sections (1) and (2) of Section 14 r/w

Section 20 of the NGT Act as a precautionary measure considering the anticipated actions of Respondent No.1, to avoid possible environmental damage and financial losses to the public exchequer.

- B. The Applicants are relying on the judgment of the Principal Bench of the NGT in O.A 2/2013 which specifically ruled that "no construction in future is permitted on and inside the blue line of the river Mutha".
- C. The aforementioned judgment stresses the importance of the flood plains of the river for the ecological services it provides such as recharge of ground water, breeding ground for fish, reptiles, amphibians and birds and helping to improve the water quality.
- D. The Respondent No. 1 has failed to meet its obligatory duty under the Maharashtra Municipal Corporations Act, "to protect the environment and promote ecological aspects", and to make "proposals for flood control and prevention of river pollution" as per the Maharashtra Regional and Town Planning Act, which are the Acts that control and direct the actions of the Municipal Corporation and would allow the Corporation to ensure that it complies with the Environment (Protection) Act, 1986, which is but an advanced expression of the same principles espoused in the aforementioned Acts.
- E. A 3-member committee appointed by the State Government for the preparation of the draft Development Plan for Pune has violated the provisions of the circular issued by the Irrigation Department which completely prohibits any construction whatsoever within the Prohibitive Zone of any river by proposing 100' roads and other structures in the bed of the Mula Mutha rivers.
- F. The aforementioned committee has completely ignored the objection to these proposed roads by the Irrigation Department and the objections submitted by thousands of citizens.
- G. The 3-member committee has also failed to mark the blue and red flood lines on the Development Plan maps.

- H. The Respondent No. 1 has already built many roads in the river bed and dumped huge amounts of debris in the river bed, which causes these roads to be submerged every year even when moderate amounts of water (60,000 Cusecs) is released from the upstream dams.
- I. Respondent No. 1 has also proposed a Metro rail corridor and 3 massive Metro stations and access roads in the river bed in the Detailed Project Report for Metro.
- J. Respondent No. 1 has admitted in a letter to the Government of India that the Metro is proposed within the blue line of the river Mutha.
- K. The Respondent No. 1 has further misled the Government and deliberately misconstrued the judgment of the NGT by falsely claiming that construction on elevated pillars has been permitted for the Metro by the NGT.
- L. The Applicants apprehend that Respondent No. 1 will manipulate and coerce the Irrigation Department into giving an NOC for construction on the Prohibitive Zone below the blue line once the Government of India gives approval for the Metro Project.
- M. Respondent No. 1 has not even bothered to undertake any Environment Impact Assessment of these massive construction projects proposed right inside and alongside the riverbed and has thus displayed utter contempt for the environment which it is obligated to protect.
- N. The construction of roads, the Metro viaduct and Metro stations is along several kilometers of the river inside the prohibitive zone and not across the river (like a bridge) and any such construction, even on pillars, will cause severe ecological damage to the flood plains and the riverine ecosystem and substantially increase the chances of catastrophic flooding by reducing the carrying capacity of the river and putting in danger the lives of thousands of people and potential loss of thousands of crores worth of public property.

- Q. The massive construction entailed for the roads, the Metro and Metro stations involving movement and operation of massive machinery is bound to have irreversible adverse impact on the river and the river bed and destroy the riparian zone of the river.
- P. Pune is already at high risk due to its location downstream from 6 dams whose cumulative discharge in case of heavy rains could be 250,000 Cusecs. The city is barely 7 km from the Khadakwasla dam whose discharge alone is 129,000 Cusecs. If it also rains at the same time in Pune, due to its topology, storm water will also gush down the hills and attempt to enter the river through various nallahs, and which in times of floods will back-up causing enormous flooding similar to what has already happened in Mumbai in 2005 and more recently in Chennai.
- Q. Climate change is now a grim reality we much acknowledge, and events that were considered to happen "once in a 100 years", are now increasingly occurring much more regularly. Weather patterns are becoming more and more erratic and unpredictable. It is also a fact that when catastrophic events happen the poor suffer the most. Hence abundant precaution is now, more than ever, an absolute necessity, indeed the prime responsibility of any public authority.
- R. The said actions of the Respondent No 1 are in violation of the policies of the Govt. of India, which in its Briefing Paper for UNFCCC has stated that "It is therefore imperative to ensure climate resilient development especially in developing countries where there are greater needs for adaptations because of their higher vulnerability to the adverse impact of climate change".
- S. Respondent No. 1 is hell bent on exploiting the natural riverbeds in the most unscientific manner for ill-planned projects under the guise of "development", is misleading the residents of Pune, gambling with the lives of thousands of people, risking thousands of crores worth of public property and indulging in the wanton waste of public money by

these aforementioned acts amount to a denial of all responsibilities under the rules of the land.

T. Applicants and other concerned citizens have written many letters and also served legal notice to Respondent No. 1, but neither any cognizance of the same has been taken nor any response received therefore the citizens are left with no other recourse but to approach the Hon'ble National Green Tribunal for justice.

LIMITATION- the Applicants got the knowledge of the proposed plan first from the Detailed Project Report (DPR) for Pune Metro in Nov 2015 and then they started collecting information and various documents related to it. The case is well within limitation of 6 months to be filed u/s 14(3) and it is being also filed u/s 20 which requires no limitation per-se.

PRAYERS:

In the present facts and circumstances of this case, it is most respectfully submitted before this Hon'ble National Green Tribunal that it may be pleased to:

- a) Considering the sustainable development aspect, restraining orders may kindly be issued to all Respondents from (proposing,) planning, (approving) or constructing any roads/Metro or structures of any other type on Prohibited Zone inside Blue Line/in the river bed of Mula Mutha or any other river.
- b) Directions may kindly be given by this Hon'ble Tribunal to stop the ongoing (procedural) work of the Riverbed Roads and Metro projects in the interest of environment, social safety and resources of the Public exchequer.
- c) Directions may be issued to the Respondents to follow Precautionary Principle mentioned under section 20 the NGT Act and making the decision process transparent.
- d) Being a social purpose, the cost of the Application may kindly be reimbursed to the Applicants by the Respondents.
- e) Permission may kindly be given to submit translations of relevant Marathi documents as and when required by this Hon'ble Tribunal.

f) Any other just and equitable orders may kindly be passed in the interest of protecting the environment.

g) Grant any other relief deemed fit and proper under the facts and circumstances of the case, in the interest of justice.

Pune.

Dated- 13th May 2016.

1. Sarang Yadwadkar

[Handwritten signature]
13/5/16

Sarang Vaman Yadwadkar

2. Mrs. Annavaz Aga

[Handwritten signature] 13/5/2016

Annavaz Rohinton Aga

3. Dileep Padgaonkar

[Handwritten signature]
DILEEP PADGAONKAR

13/5/2016

APPLICANTS

THROUGH:

(ASIM SARODE AND ASSOCIATES)

ADVOCATES FOR THE APPLICANT

Flat No.1, Prathamesh CHS Lane No.5,

Prabhat Road, Pune-411 004 (Maharashtra)

4. *[Handwritten signature]* 13/5/2016
(ARTI KILLOSKE)

[Handwritten signature]
(Advocate)

BEFORE THE NATIONAL GREEN TRIBUNAL (NGT),
WESTERN ZONE BENCH, PUNE

Application No. /2016 (WZ)

Sarang Yadwadkar
and others

..... Applicants

VERSUS

1. The Pune Municipal Corporation
Through the Municipal Commissioner,
Shivajinagar, Pune 411005
2. The Divisional Commissioner,
Pune Division,
Council Hall, Camp, Pune 411001
3. The Joint Director,
Town Planning Department,
Government of Maharashtra,
Central Building, Pune 411001
4. The Urban Development Department,
Through the Principal Secretary, Urban Development (I)
Government of Maharashtra,
Mantralay, Mumbai 400032
5. The Ministry of Urban Development,
Through the Secretary, Ministry of Urban Development,
Government of India,
Nirman Bhavan, New Delhi 110011
6. The Managing Director,
DMRC Ltd.
Metro Bhawan, Fire Brigade Lane
Barakhamba Road, New Delhi 110001
7. Maharashtra Pollution Control Board,
Through the Regional Officer, Pune,
Jog Centre, 3rd Floor, Mumbai-Pune Road,
Wakadewadi, Pune 411003.

24

S. The Maharashtra State Biodiversity Board
Jaivavidhata Bhavan, Civil Lines,
Nagpur 440001

..... Respondents

AFFIDAVIT

I, Sarang Vaman Yadwadkar, Age: 57 Years, Occ.: Architect, Residing at A-9, Pradnyangad, S. No. 119/3, Sinhagad Road, Pune - 411030, the applicant No. 1 herein do hereby solemnly affirm that the contents of Para no's 1 to 41 are true to my personal knowledge, information and belief and Para no's A to T of the Grounds, which I believed to be true and correct on legal advice and contents of limitation, prayers are also I believe to be true and correct based on legal advice. I have not suppressed any material fact.

In witness hereof I have signed here at Pune, 17th day of May, 2016.

[Handwritten Signature]
17/5/16

Sarang Vaman Yadwadkar
Affiant

I know the Affiant,

[Handwritten Signature]



BEFORE ME

Advocate

[Handwritten Signature]
17/5/16

NOTED AND REGISTERED AT
SERIAL NUMBER 50060

SUNIL R. KOTLIKAR
NOTARY, GOVT OF INDIA
PUNE DISTRICT (M. HARASHTRA)
REGD. No. 9064



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

**Original Application No.67/2016(WZ)
[M.A. No.184/2016, M.A. No.198/2017]**

CORAM:

**Hon'ble Mr. Justice U.D. Salvi
(Judicial Member)**

**Hon'ble Dr. Nagin Nanda
(Expert Member)**

In the matter of:

1. Mr. Sarang Yadwadkar

Age: 57, Occ: Architect
R/AT: A-9, Pradnyangad Appts,
S.No.119/3, Sinhagad Road,
Pune-411030.

2. Mrs. Amavaz Aga

Age : 73 years, Occ: Business
Member of Parliament,
Boat Club Road,
Pune-411 001.

3. Mr. Dileep Padgaonkar

Age: yrs, Occ: Journalist & Writer,
601, Hariyali, Modi Baug II,
Ganeshkind Road,
Pune-411 016.

4. Mrs. Arti Kirloskar

Age: 55 years, Occ: Artist,
Radha, 453, Gokhale Road,
Model Colony,
Pune-411 016.

... **Applicants**

Versus

1. The Pune Municipal Corporation

Through Municipal Commissioner
Shivajinagar, Pune-411 005.

2. The Divisional Commissioner,

Pune Division, Council Hall,
Camp. Pune – 411 001.

3. The Joint Director,

Town Planning Department,
Government of Maharashtra,
Central Building, Pune 411 001.

4. The Urban Development Department,

Through the Principal Secretary,
Urban Development (I)
Govt. of Maharashtra, Mantralaya,
Mumbai 400 032.

5. The Ministry of Urban Development,

Through the Secretary,
Govt. of India, Nirman Bhavan,
New Delhi-110 001.

6. The Managing Director,

DMRC Ltd.
Metro Bhawan, Fire Brigade Lane
Barakhamba Road, New Delhi.

7. Maharashtra Pollution Control Board

Through the Regional Officer, Pune
Jog Centre, 3rd Floor, Mumbai Pune
Road, Wakdewadi, Pune-411 001.

8. The Maharashtra State Biodiversity Board

Jaivavidhata Bhavan, Civil Lines,
Nagpur – 440 001.

9. Maharashtra Metro Rail Corporation Ltd.

Having its office at: Metro House, 28/2
Anand Nagar, C.K.Naidu MG Civil Lines,
Nagpur-440 001.

... Respondents

Counsel for Applicant (s):

Mr. Asim Sarode, Advocate for the Applicants.

Counsel for Respondent (s):

Mr. Pralhad D. Paranjape for Respondent No. 1.

Mr. Saurabh Kulkarni for Respondent No.6.

Ms. Manasi Joshi for Respondent No.7.

Mr. D.M. Gupte, Advocate a/w Mr. Shashank Vakil, Advocate for Respondent No.8.

Mr. S.K. Mishra, Senior Advocate a/w Mr. Pralhad D. Paranjape, Advocate for Respondent No.9

Date: - 13th October, 2017

ORDER

1. In the present application, the Applicants are seeking prohibitory injunction against the Respondents, particularly, the Respondent No.9 – Maharashtra Metro Rail Corporation Ltd. (MMRCL), a special purpose vehicle created for executing the project of Metro Rail within the limits of Pune Municipal Corporation, from proposing, planning, approving or constructing any roads, Metro or structures of any other type on prohibited zone inside Blue Line in the river bed of Mula Mutha. The issue regarding jurisdiction of this Tribunal was duly answered by us vide Order dated 29th August, 2017 in following words:

“13. In our view, therefore, explicit of provisions of the NGT Act, 2010 have been enacted for effective and expeditious disposal of the cases relating to environment protection, conservation of forest and other natural resources including enforcement of any legal right relating to environment and granting relief and compensation for damages to the persons and property, and for the matters connected or incidental thereto; and as such confer a jurisdiction on us to entertain, try and dispose off the present Application regardless of the provisions of MR Act, 1978, which stand superseded by virtue of Section 33 of the NGT Act, 2010. Hence, the Application is rejected.”

2. In the Civil Appeal No.14941/2017 preferred by Respondent No.9 – MMRCL against the said order before

the Hon'ble Supreme Court of India, the following order dated 18th September, 2017 came to be passed:

“O R D E R

Issue notice.

Tag with Civil Appeal No.8762/2016 and C.A. No.9070/2016.

The National Green Tribunal by the impugned order has only decided on its jurisdiction and has not yet taken any view in the merits of the case. The Tribunal may decide the case finally as we are informed that the case is fixed finally on 21st September, 2017. However, in case the final order goes against the appellant no effect to that shall be given without leave of this Court. At the same time, we make it clear that there is no stay on the project which is being undertaken by the appellant and it will have the right to continue with the project.” (emphasis supplied)

In substance, therefore, the Hon'ble Supreme Court has permitted us to exercise our jurisdiction subject to its supervision.

3. Broadly speaking, it is the case of the Applicants that the construction of Metro Rail over 1.7 km of stretch of land and 100 ft. wide roads proposed in the Draft Development Plan of City of Pune, more particularly, shown at Annexure 4 to the Application, falling within the Blue Line along the banks of River Mutha and even in the river bed i.e. No Development Zone is bound to cause tremendous environmental and ecological damage in terms of adverse effect on free flow of river Mutha, unprecedented flooding, Water and Air pollution and irreversible damage to the bio diversity in the river bed with consequent invitation to unforeseen disaster resulting in incalculable loss of lives and property. The

Applicants submit that the proposed actions of the Respondents in execution of the construction of Metro Rail and 100 ft. wide as conceived through the No Development Zone along the River Mutha raise a substantial question of environment arising out of implementation of enactments prescribed in Schedule I of the National Green Tribunal Act, 2010 more particularly, the Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974, the Biological Diversity Act, 2002, the Air (Prevention and Control of Pollution) Act, 1981; and Section 20 of the National Green Tribunal Act, 2010 exhorts Tribunal to apply the precautionary principle and principles of sustainable development in the matter of decision making in the present Application for grant of relief of prohibitory injunction as solicited.

4. Fact that the construction of Metro Rail in the said 1.7 km of stretch of land and 100 ft. wide roads as shown at Annexure 4 to the application falling within the Blue Line along the bank of River Mutha as conceived is on the verge of implementation is not disputed by any of the Respondents. Keeping in mind the principles of sustainable development and the precautionary principle, we have to ascertain the environmental damage which would occasion as a result of such construction/s before taking a final view in the case.

5. It is, therefore, necessary to examine what the Respondents have to say as regards the environmental damage that would occur due to construction of Metro Rail through the said 1.7 km of stretch of land as well as construction of 100 ft. wide roads graphically shown in the maps at Annexure 4 (page 37-39) to the Application falling within the Blue Line along the banks of River Mutha within the limits of Pune Municipal Corporation.

6. The Respondent No.1- Pune Municipal Corporation (PMC) filed Affidavits in Reply dated 27th July, 2016 of City Engineer and 19th November, 2016 of Chief Engineer (Project). The Respondent No.1 – PMC besides pleading the benefits of the project in terms of improved mode of transportation and commutation, submitted that the decision of implementing the Pune Metro Project was taken after considering all the issues concerning feasibility, technical and environmental impacts of the Metro. Learned Counsel appearing on behalf of Respondent No.1 – PMC besides adopting the legal submissions made on behalf of Respondent No.9 – MMRCL invited our attention to Exhibit I annexed to the Affidavit in Reply dated 19th November, 2016 of Chief Engineer (Project) viz PMC's correspondence in relation to No Objection Certificate given to the Metro Rail Project by Bio-Diversity Committee of Pune Municipal Corporation and the Preliminary Report of Technical Support Group of

Bio-Diversity Management Committee, PMC for Proposed Metro Alignment along the Mutha River. It is an admitted fact as the NOC from the Bio-Diversity Committee of PMC reveals that the stretch of 1.7 km of land passes through the dense locality and the construction of Metro Rail pillars warrants tree felling along the said stretch. The Bio-Diversity Committee of PMC has also acknowledged the fact that the proposed site for Metro alignment in question falls in the Outer Channel/bank of River Mutha along the Central Channel holding main river flow and affords sparse marshy habitats. According to the said report, approximately 60 trees of various local species namely *Acacia nilotica*, *Cassia saimea*, *Ficus benghalensis*, *F.racemosa*, *Pithecellobium dulce*, *Polyalthia longifolia*, *Pongamia pinnata*, *Samania saman* and *Sterculia foetida* are likely to be affected due to the proposed alignment in the river bed and its loss will have some effect on local ecological balance such as the disruption of habitat for small birds, raptors, arboreal mammals, etc., resulting in their migration to other areas. The Committee prepared check list of fauna for the purpose of studies of adverse impacts on them and claimed to have made Biodiversity assessment based on one time observations, and further acknowledged that the extant flora and fauna is already under tremendous impact due to various anthropogenic pressures. The report also took cognizance of our Order

passed in **Vitthalwadi Riverbed Road case (O.A. No.2/2013 passed on 11th July, 2013)** thereby prohibiting any encroachment/ construction in future inside the Blue Line of River Mutha to prevent restriction to the free flow of the river water and finally concluded as follows:

“ In view of the preservation of the existing ecology and environment of Mutha River, the metro project should be executed in a way which will avoid a significant damage to the extant biodiversity of Mutha River and other alternatives pertaining to the alignment can be explored. As per our preliminary observation approximately 60 trees are likely to be affected along the proposed Metro alignment in the river bed, however the detailed engineering will reveal the exact number of trees which will be affected. The removal of these trees and the loss of vegetation cover will have some effect on local ecological balance, such as the disruption of habitat for small birds, raptors, arboreal mammals, etc. Hence, the mitigation measures such as restoration of habitats in the riparian zone and compensatory afforestation should be done in a way that will help to nurture the native biodiversity. We strongly recommend a detailed Environment Impact Assessment of the proposed Metro alignment in the riverbed in order to safeguard the biodiversity and people along the Mutha River.”
(emphasis supplied)

7. Respondent Nos.2 – The Divisional Commissioner and 3 – The Joint Director, Town Planning Department filed Affidavit in Reply dated 16th July, 2016 giving their comments as regards Draft Development Plan for the city of Pune vis-à-vis the Metro alignment and in particular brought on record the note regarding Draft Development Plan in relation to the flood in the following words:

“Flood lines (red and blue) along Mula and Mutha river, shall be part of Development Plan as and when

received from Irrigation Department duly marked with reference to Survey No. /C.T.S. No./ F.P. No. boundary.

Therefore, red and blue lines are part and parcel of the Development Plan. For want of survey no. wise detailed maps from the Irrigation Department in time, they could not be included in the Development Plan itself.”

Nowhere we find any note regarding the environmental damage that would be occasioned as a result of the said construction in the Affidavit dated 16th July, 2016. As a matter of fact, Respondent No.4 – Urban Development Department, Government of Maharashtra through the Joint Director, Town Planning, Pune Division has distanced itself from the issue of floods and pollution of rivers that may arise from the Development Plan while commenting on Section 22 of Maharashtra Region and Town Planning Act in following words:

“ It is very clear from the above provisions that the Development Plan can be prepared for any or some of or all of the items listed in the said section. Therefore, the Petitioners’ contention that ‘components that control floods and prevent pollution of rivers should necessarily be an integral part of the DP’ does not hold good.”

8. Respondent No.5 – Ministry of Urban Development, Government of India has interestingly revealed in its Affidavit dated 15th September, 2016 that it is proforma party and the proposal of Metro Rail project is under approval and has not yet be approved by Government of India and the responsibility of preparation of Detailed Project Report of Pune Metro and

Development Plan of Pune city lies with the State Government of Maharashtra. The reply further makes an interesting revelation that 'In Principle' approval for Pune Metro was given on 11th February, 2014 subject to conditions that 'in principle' approval should not be taken as "prior approval" in part or whole for Central Financial Assistance.

9. Affidavit in Reply of Respondent No.7 – MPCB dated 20th September, 2016 merely acknowledges the fact that the construction in question is proposed inside the Blue Line of Mula-Mutha river beds wherein no construction is allowed and the Board has not received any application for grant of Consent to Establish/Operate the said project.

10. Respondent No.8 – Maharashtra State Biodiversity Board filed Affidavit dated 26th August, 2016 making a material comment as under:

“However, in the present case (67/2016), the Respondent No.1 does not involve the Maharashtra State Biodiversity Board (MSBB) during the preparation of Development Plan (D.P.) of the city and Metro Rail which is passing through the Mutha River Bed in the Pune city. The Environment Impact Assessment i.e. EIA Report as per the guidelines of Environment Protection Act, 1986 published by Metro Rail Authority indicates there is no specific comment on the biodiversity present in the river water and ecological assessment of the river from where the Metro is proposed. The report is mentioning about number of trees to be cut down which are 685 (as per page no 12/21) and 900 (as per page 17/21). The report provided local name of the main species to be cut down and not the botanical names.”

The Respondent No.8 referring to Rule 14(1) of the Biological Diversity Act, 2002 asserted that it is authorised to give directions to the local bodies/Biodiversity Management Committees in writing and through appropriate oral means for effective implementation of the Act and to facilitate their meaningful participation in all measures relating to conservation, sustainable use and equitable benefit sharing, and further authorised to undertake physical inspection of any area in connection with the implementation of the Act and to constitute a committee for verification of status of biodiversity in the river bed and its overall ecological significance. The Respondent No.8 Board sought directions to the Respondent No.1 – PMC to provide all copies related to Development Plan of the city and Metro Rail passing through the Mutha river bed in the city of Pune along with EIA report prepared by the project proponent.

11. Respondent No.9 –MMRCL filed Affidavit in Reply dated 8th May, 2017. Except making a bland statement that the decision to have alignment to the project through the corridors along the banks of the River Mutha was taken after considering environmental impacts, and that there would not be any impediment to the free flow of water due to the design of the construction of pillars, and that the whole project complies with the Disaster

Management Act, 2005. There is nothing before us to answer with clarity the questions which arise in our mind regarding the environmental damage which would occur due to the construction/s in question.

12. While finally deciding the present case we will have to scrutinise the material before us and ascertain the merits of the case, particularly, the irreparable loss, if any, that would occasion to the environment on account of the construction in question. Any construction, for that matter any change in the situation, brings about certain amount of impact on the environment – physical, chemical and biological as well. Environmental jurisprudence requires the project proponent to establish that its activities are benign to the environment before he acts.

13. We do not find any other replies in the record. The Applicants have no objection to appoint the Expert Committee for acquiring judicial acuity and are willing to submit to the orders of the Tribunal.

14. In this background, learned Senior Counsel Mr. Mishra appearing on behalf of Respondent No.9 – MMRCL much to our consternation made a submission that the Central and the State Government had considered the environmental impacts of the Metro Rail project and only thereafter granted sanction to the project vide Letter dated 9th January, 2017 and Notification dated 23rd

December, 2016 respectively, making particular reference to the environmental studies made in that regard in the said sanction-vide paragraph Nos.6, 8(O), (P) and 10 in Letter dated 9th January, 2017 and paragraph No.3 of the Notification dated 23rd December, 2016 respectively. Sadly, we have to record that we do not find reference to any environmental studies in the said Notification/Sanction. By no stretch of imagination, environmental studies could be said to be part of any Sanction/Notification issued by the State ever. More responsible submission befitting the stature of the Senior Counsel, therefore, was expected by us in that regard. Learned Counsel appearing on behalf of Respondent No.9 further submitted that appointment of the Expert Committee would amount to enlarging the scope of the application and exercising *suo motu* powers in collection of evidence and thereby going beyond the liberties granted by the Hon'ble Apex Court to this Tribunal vide Order dated 18th September, 2017.

15. Learned Counsel appearing on behalf of Respondent Nos.1 and 2 adopted the submissions made on behalf of Respondent No.9. Learned Counsel appearing on behalf of Respondent No.6 also towed the same line. He did make a reference to some environmental studies in DPR which has not been placed before us. Nevertheless, the material before us points out

that the proposed construction is in No Development Zone i.e. inside the Blue Line along the river bed of Mutha River and falls short of answering the pertinent question in relation to the bio-diversity and ecological assessment of the river.

16. The Hon'ble Apex Court has permitted us to decide this case finally subject to the rider that no effect shall be given to the adverse order passed against the Respondent No.9 – MMRCL without their Lordships leave.

Before taking a final view we have to clearly answer certain material questions that figure in our mind, and the answers to these questions can only be given after site specific scientific investigation, which cannot in our opinion be conducted by us or before us. In ordering such scientific investigation, we are of the considered opinion that neither we are enlarging the scope of the application or going beyond the liberties granted by the Hon'ble Apex Court nor indulging in an exercise of collecting evidence inasmuch as it will only enrich our understanding of the material before us through science.

17. In the instant case, the construction/s are proposed by the Respondent No.1-PMC and Respondent No.9 – MMRCL and as such they are under obligation to reveal before us the benign nature of the proposed construction/s. The cost of the scientific investigation, therefore, shall be equally borne by them.

18. Adverting to paragraph Nos.15 to 20 in the Judgment dated 22nd September, 2017 delivered by the Hon'ble Apex Court in Civil Appeal No.1359 of 2017; ***Techi Tagi Tara Vs. Rajendra Singh Bhandari & Ors.***, learned Counsel appearing on behalf of Respondent No.9 – MMRCL submitted that the application fails to raise a substantial question relating to environment resulting in a dispute as contemplated under Section 14 of the National Green Tribunal Act, 2010. At this juncture, when we are in the process of finding answers to some of the pertinent questions raised by the controversy before us, we do not find the submission made in that regard relevant.

19. We, therefore, pass the following order:

1. We constitute a Committee of Experts drawn from the field of Hydrology, Ecology and Bio-diversity, and Water pollution and direct NEERI, Maharashtra State Bio-Diversity Board, Maharashtra Pollution Control Board (MPCB) to nominate Senior Scientists one each respectively to the said Committee to:
 - (a) Visit the site/s of construction/s of Metro Rail and proposed roads as indicated in the order;
 - (b) Take photographs, collect samples and carry out local investigation as deemed necessary by them;
 - (c) Assess impact of the said construction/s on the environment namely ground water recharge, bio-diversity in the river bed, free flow of the water, risk of flooding, debris disposal, water pollution and air pollution,

and also the mitigating factors involved therein.

2. NEERI shall be the convenor of the Expert Committee
3. The Expert Committee shall study whether the impacts assessed by them individually or cumulatively are irreparable or not and make their recommendations, if any, in that regard.
4. All logistic support to the Expert Committee shall be provided by Respondent No.7 – MPCB.
5. Cost of the scientific investigation shall be borne by Respondent No.1 and Respondent No.9 – MMRCL equally and for that purpose they shall initially deposit an amount of Rs.2.5 Lakhs each with the Respondent No.7 – MPCB within a week.
6. Respondent No.1 – PMC is directed to furnish copies of the Development Plan of the City of Pune and Metro Rail to the Expert Committee within a week.
7. Respondent No.6 – DMRC Ltd and Respondent No.9 – MMRCL are directed to furnish detailed project report along with environment assessment report, if any, to the Expert Committee within a week.
8. The work of scientific investigation shall be completed within a month and report thereto shall be placed before us on the next date.

Registry to communicate this order to Director NEERI, Chairman Maharashtra State Biodiversity Board and Member Secretary, Maharashtra Pollution Control Board.

List this case for compliance on 14th November, 2017.

....., **JM**
(Justice U.D. Salvi)

....., **EM**
(Dr.Nagin Nanda)

Date: 13th October, 2017
mk



ITEM NO.69

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 14941/2017

MAHARASHTRA METRO RAIL CORPORATION LTD

Appellant(s)

VERSUS

PUNE MUNICIPAL CORPORATION & ORS.

Respondent(s)

(FOR PERMISSION TO FILE APPLICATION FOR DIRECTION ON IA 93744/2017
FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
93745/2017
FOR EXEMPTION FROM FILING O.T. ON IA 93746/2017)

Date : 18-09-2017 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. K.K. Venugopal, AG
Mr. Tushar Mehta, ASG
Mr. S.K. Mishra, Sr. Adv.
Mr. Mehul M. Guputa, Adv.
Mr. Pralhad Paranjape, Adv.
Mr. R. P. Gupta, AOR

For Respondent(s) Ms. Anitha Shenoy, AOR
Ms. Srishti Agnihotri, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Issue notice.

Tag with Civil Appeal No. 8762/2016 and C.A. No. 9070/2016.

The National Green Tribunal by the impugned order has only

decided on its jurisdiction and has not yet taken any view in the
merits of the case. The Tribunal may decide the case finally as we

are informed that the case is fixed finally on 21st September, 2017.

However, in case the final order goes against the appellant no

effect to that shall be given without leave of this Court. At the same time, we make it clear that there is no stay on the project which is being undertaken by the appellant and it will have the right to continue with the project.

(ASHWANI KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 130 of 2018
(M.A. No. 343/2018, 344/2018, 345/2018 and 346/2018)
(Earlier O.A. No. 67/2018 (WZ))**

IN THE MATTER OF:

Sarang Yadwadkar & Ors.

Vs.

Pune Municipal Corporation & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

<p>Applicant</p> <p>Respondent No. 1</p> <p>Respondents</p> <p>Respondent No. 9</p>	<p>Mr. Asim Saroda, Adv.</p> <p>Mr. Sarang Yadwadkar – Applicant No. 1</p> <p>Mr. Pralhad Parajapa and Ms. Nisha Chavan, Adv.</p> <p>Mr. Mukesh Verma, Adv. for MPCB</p> <p>Mr. S.K. Mishra, Sr. Adv. alongwith Mr. Pralhad Parajapa and Mr. Kaustabh Deogade, Adv.</p> <p>Mr. Manasi Joshi, Adv. For MPCB</p> <p>Mr. Suryakant Shinde, F.O., MPCB and Mrs. A.R. Bakne, Legal Retainer, MPCB</p> <p>Ms. Supriya Dangare, Adv.</p>
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Date and Remarks	Orders of the Tribunal
<p style="text-align: center;">Through Video Conferencing</p> <p style="text-align: center;">Item No. 01</p> <p style="text-align: center;">August 03, 2018</p> <p style="text-align: center;"><small>SS & DV</small></p>	<p>1. This application has been filed against construction of Road, Metro or other structures in the prohibited zone inside the 'Blue Line' in the river bed of Mula Mutha or any other river.</p> <p>2. The applicant refers to the development plan prepared under the provision of Maharashtra Regional and Town Planning Act (MRTP Act) 1966, for the Pune City, 2007-2027. The development plan provides for construction of 100 Ft. wide roads and construction of railway and metro stations on Mula Mutha river beds inside the Blue flood line which is a prohibited zone. This project may cause irreversible damage to the ecology and environment. The project will obstruct the natural flow of the river. The project is also against the report of the irrigation department. The description and</p>

	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>the map given in the DPR clearly shows that the Metro Line enters the Mutha riverbed behind Savarkar Smarak on Karve Road. The alignment then proceeds along the left bank of the river up to PMC Bhavan/Nava Pool and exits the riverbed thereafter to proceed towards Food Grain Godown behind Civil Court. The Metro tracks cross the following bridges: Lakadi Pul, Z-bridge, Balgandharva Bride, Tilak Bridge near PMC Bhavan and Nava Pul. Three Metro stations are also proposed on the riverbed at Deccan, Samabhaji Park and Pune Municipal corporation building.</p> <p>3. The applicant states that considering the topography of the riverbed and the development up to the edges of the river bank, there is no space left between Blue line and the existing development for any construction. Therefore, any construction for Metro tracks or Metro stations has to be on riverbed on prohibited Zone within the blue line of the river (whether superimposed in the DP or not). Metro line will run on top of 10-metre wide viaduct (flyover like structure) supported on numerous huge RCC pillars. The entire viaduct structure of about 2 km length will be within the Blue line on "Prohibitive Zone". The Metro stations will be supported on massive RCC pillars. The station structures will be huge multilevel buildings of total length 140 m with maximum width at concourse of 35 m and minimum width 16.5 m at the narrowest part. Three such Metro stations have been planned on the riverbed. The Metro stations also need auxiliary systems and facilities like Access for passengers from road level in the form of staircases, Lifts, Escalators, Foot over</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>bridges, Wash rooms, Ticketing counters, Offices, Sale counters, Power backup systems, Store rooms, Waiting spaces, Air conditioning plants, Vehicular parking lots, Security screening facilities etc. As there is no space left between the existing development and Blue flood line in this particular part of the river, the supporting structures for all above systems/facilities will have to be on the riverbed.</p> <p>4. According to the applicant, even if the construction is on RCC Pillars, since it will not be like a bridge, it will cause obstruction to the natural flow of the river. Pune city is surrounded by hills, with 6 dams on upstream side within 25-30 km. These dams though they have independent catchments, are close to each other. If a cloud burst takes place even in one dam, it would rain heavily in all other dams too and Pune being at a very short distance would not escape from the torrential rains. Being surrounded by hills, storm water gushes down to the rivers through the city from all directions. In such a critical situation, if the dams start discharging water to the highest capacity, Khadakwasla dam alone would be releasing 1,28,899 CuSecs. Add to that discharge from other dams and the city would receive 2,50,000 CuSecs. through Mutha and Mula rivers. The situation will be further aggravated by the storm water gushing down from surrounding hills. In Pune there is only one outflow to this water, that is Mula-Mutha river. In short, if it rains heavily in or around Pune, due to its topographical position, the situation in Pune will be far more grave than even Chennai.</p> <p>5. The applicant has relied upon a circular of the</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>irrigation department specifying as to what are the Prohibited Flood Line (Blue line), Restricted Zone, Restricted Flood Line (Red Line).</p> <p>6. Reliance has also been placed from the judgment of this Tribunal dated 11th July, 2013 in Original Application No. 2 of 2013 Sarang Yadwadkar Vs. Commissioner, Pune Municipal Corporation. The applicant No. 1 herein was also applicant No. 1 therein. Challenge was to the construction of road from Vitthalwadi to National highway Fort bypass as per Draft Development Plan of Pune. The construction was said to be within the blue line. The Tribunal partly allowed the application. While permitting the project to be completed, directions were issued to realign the road as far as possible beyond the blue line and remove the structures inside the blue line. In para 37, it was observed that the project has to be carried out subject to stringent conditions to protect environment and ecology in greater public interest. The road can be raised by elevated pillars in the area within the blue line so as to not to obstruct the flow of the river nor to narrow the flood plain.</p> <p>7. Response has been filed on behalf of the Respondents. The stand of the Pune Municipal Corporation is that construction of Pune Metro will benefit lakhs of residents of Pune. The project has been jointly initiated by the Pune Municipal Corporation (PMC) and Pimpri Chinchwad Municipal Corporation (PCMC) and they appointed Delhi Metro Rail Corporation (DMRC) as a technical consultant. The Government of India has given its approval to the project. The Chief</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>Minister constituted a Committee under the Chairmanship of Guardian Minister of Pune District. The Committee gave its report in April, 2015 which was forwarded to the Government of India.</p> <p>The benefits of the project are claimed to be as follows:</p> <ul style="list-style-type: none"> (a) Requires 1/5th energy per passenger km compared to road based system. (b) Causes no air pollution in the city. (c) Causes lesser noise level. (d) Occupies no road space, if underground and only about 2 meters width of the road, if elevated. (e) Carries same amount of traffic as 5 lanes of bus traffic or 12 lanes of private motor cars [either way], if it is a light capacity system. (f) Is more reliable comfortable and safer than road based system. (g) Reduces journey time by anything between 50 % and 75% depending on road conditions. (h) Is a well accepted mode of transport and communication world over. <p>8. It is further stated that there has been detailed Environment Impact Assessment. The apprehension of any adverse impact is without any technical basis.</p> <p>Stand of the Delhi Metro Rail Corporation (DMRC) is that the project will help in controlling the vehicular pollution and such projects have been undertaken in several major cities of India and abroad.</p> <p>9. Some citizens have also filed their opinions in support of the project stating that there are many similar projects in the world running over the water reservoirs</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>such as lakes, rivers and seas. It is submitted that the project should be executed to avoid damage to the biodiversity. Since removal of trees and loss of vegetation cover can have adverse effect on local ecological balance such as the disruption of habitat for small birds, raptors, arboreal mammals, etc. mitigation measures such as restoration of habitats in the riparian zone and compensatory afforestation should be done in a way that will help to nurture the native biodiversity. Reference has also made to Bandra - Worli sea link which is helpful to millions of passengers without harming the environment. The suggestion is that the project should be allowed, but all the necessary precautions should be taken.</p> <p>10. Initially the Tribunal granted stay on 02.01.2017 but the same was vacated in appeal by the Hon'ble Supreme Court of India on 20.01.2017 in C.A. No. 313/2017 filed by the Pune Municipal Corporation.</p> <p>11. On 29th August, 2017, the Tribunal considered the preliminary objection to the effect that the Tribunal has no jurisdiction to go into the matter in view of overriding provisions of Metro Railways (Construction of Works) Act, 1978. Against the order rejecting the preliminary objections of jurisdiction, the matter was taken to the Hon'ble Supreme Court and vide order dated 18th September, 2017 in C.A. No. 14941/2017, filed by Maharashtra Metro Rail Corporation ltd it was observed that the Tribunal may decide the case finally. Accordingly, the Tribunal proceeded to consider the matter on merits.</p> <p>12. On 13th October, 2017, the Tribunal constituted a</p>
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	<p style="text-align: center;">Through Video Conferencing</p> <p style="text-align: center;">Item No. 01</p> <p style="text-align: center;">August 03, 2018</p> <p style="text-align: center;">SS & DV</p>	<p>Committee of experts directing as follows:</p> <p><i>“1. We constitute a Committee of Experts drawn from the field of Hydrology, Ecology and Biodiversity, and Water pollution and direct NEERI, Maharashtra State Bio-Diversity Board, Maharashtra Pollution Control Board (MPCB) to nominate Senior Scientists one each respectively to the said Committee to:</i></p> <p><i>(a) Visit the site/s of construction/s of Metro Rail and proposed roads as indicated in the order;</i></p> <p><i>(b) Take photographs, collect samples and carry out local investigation as deemed necessary by them;</i></p> <p><i>(c) Assess impact of the said construction/s on the environment namely ground water recharge, bio-diversity in the river bed, free flow of the water, risk of flooding, debris disposal, water pollution and air pollution, Order(Application No.67/2016) 16 and also the mitigating factors involved therein.</i></p> <p><i>2. NEERI shall be the convenor of the Expert Committee</i></p> <p><i>3. The Expert Committee shall study whether the impacts assessed by them individually or cumulatively are irreparable or not and make their recommendations, if any, in that regard.</i></p> <p><i>4. All logistic support to the Expert Committee shall be provided by Respondent No.7 – MPCB.</i></p> <p><i>5. Cost of the scientific investigation shall be borne by Respondent No.1 and Respondent No.9 – MMRCL equally and for that purpose they shall initially deposit an amount of Rs.2.5 Lakhs each with the Respondent No.7 – MPCB within a week.</i></p> <p><i>6. Respondent No.1 – PMC is directed to furnish copies of the Development Plan of the City of Pune and Metro Rail to the Expert Committee within a week.</i></p> <p><i>7. Respondent No.6 – DMRC Ltd and Respondent No.9 – MMRCL are directed to furnish detailed project report along with environment assessment report, if any, to the Expert Committee within a week.</i></p> <p><i>8. The work of scientific investigation shall be completed within a month and report thereto shall be placed before us on the next date.”</i></p> <p>13. Accordingly, report dated 05th January, 2018, has been submitted by the Committee. It will be sufficient to reproduce the summary and recommendations of the said Committee which are as follows:</p> <p>“5. Summary and recommendations 5.1 Proposed Metro Rail Alignment along the bank of river</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>Based on the data received and analysis of biodiversity, water pollution and hydrology, the committee has suggested the following recommendations and suggestions.</p> <ul style="list-style-type: none"> • As per survey conducted for bio-diversity along the alignment, 32 trees are likely to be affected out of 23 trees need to be transplanted at project site in the vicinity at Mutha river basin and 9 number of trees required to be cut. Scientific methodology for transplantation of the trees must be adopted to minimize mortality. The trees recommended for transplantation must be transplanted in the of project site along the river bank. The trees which are cut must be compensated by planting three times the number of trees as per PMC aforestation rule. Total 32 trees are likely to be affected for which 96 trees are required to be planted at designated plantation area at Pachgaon Parvati. This need to be done in consultation with Park & Garden Department of PMC, Pune with preferably native plant species. • Water pollution in the river is observed which require plan for prevention of river water pollution, its effective implementation in time bound manner. • Committee recommends that nalla/drain containing municipal solid waste (such as plastic, thermocol, nirmalya and other silt) should be cleaned before water enters the river in upstream as well as in downstream of the proposed stretch in the river. As such no major drains/nallas are entering in the river along the proposed stretch. PMC should seriously consider in-situ nalla treatment before sewage/wastewater enters in the river. • Impact of construction of proposed piers for metro rail on river hydrology is insignificant due to rise in afflux from 2 to 12 mm and increased submergence from 3 to 23 mm considering maximum discharge of 100,000 cusecs. This nominal rise and submergence is due to metro rail alignment at the left bank and parallel to river. Impact would have been significant if alignment will across the river. • Committee also suggest installation of suitable number of dust sensors at a distance of 20 m towards habitat side from metro alignment for monitoring of PM10 (<100 µg/m³) during construction of metro corridor including stations. • Committee recommends the strict compliance of Environmental Management Plan as per EIA during
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>construction and operation phases of the project. This includes dust control measures, excavated soil control measures, noise control measures, solid and liquid waste management etc. Proper care needs to be taken for preventing spillage of mortar or cementing material into the river during construction.</p> <ul style="list-style-type: none"> • Committee recommends effective solid and liquid waste management at both the stations (Deccan and Sambhaji Park) as per Solid Waste Management Rules, 2016 and recent effluent discharge standards (October 13, 2017) respectively. MMRCL has to assure by providing toilets, washrooms and garbage collection bins (wet and dry) at prominent places for the passengers/visitors. • No solid waste will be allowed in the riverbed during construction and operation phases of the metro project. For decomposition of organic waste, organic waste converter must be installed at each metro station. For non-degradable waste, it will be collected, treated and disposed as per waste management practices of Pune Municipal Corporation. The compost from organic waste converter must be used as a fertilizer for onsite gardening and for landscaping within the project area site especially Deccan and Sambhaji Park stations. • No liquid waste from toilets, washrooms and other activities must be properly collected and treated at the stations through sewage treatment plant as per recent effluent discharge standards [Biochemical Oxygen Demand (BOD) < 20 mg/l, Total Suspended Solids (TSS) < 50 mg/l and Fecal Coliform (FC) < 1000 mpn/100ml]. The treated effluent must be reused for flushing urinals, toilets, landscaping and gardening and excess treated water may be discharged in city sewerage system of PMC. • Committee observed that there is a need of allotted parking in the vicinity for both the metro stations (Deccan and Sambhaji Park) to provide smooth functioning of the metro system. MMRCL has to identify the place and location for parking facility at both the stations.” <p>14. When the matter was taken up for hearing today, learned Counsel for the Project Proponent submitted</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>that he has no objection to the report being accepted in full and the project will proceed fully complying with the recommendations.</p> <p>15. As noted above, the Expert Committee has concluded that impact of construction of piers for metro rail on river Hydrology is insignificant, considering the level of discharge in the river due to rise in afflux from 2 to 12 mm and increased submergence from 3 to 23 mm considering the level of discharge in the river. Recommendations of the Committee which the project proponent has undertaken to comply include compensatory afforestation, cleaning of drain and installing dust sensors.</p> <p>16. In view of the above, we are of the opinion that it will not be in public interest to prohibit the project. However, the project may be completed by following all the safeguards suggested by the Expert Committee. We also direct that the Committee will inspect the ongoing project once in two months and if any further directions are given by the Committee, the Project Proponent will be bound by the same.</p> <p>17. We also direct the Divisional Commissioner of Pune to associate with the Committee and supervise the project specially the environmental aspects. It will be open to the applicants or any other stakeholders to continue to give their suggestions to the Committee so that any damage to the environment can be prevented or minimized. In case it is found that the Project Proponents are not complying with the directions of the Expert Committee, the Committee will be at liberty to bring the same to the notice of this Tribunal by moving</p>
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	<p>Through Video Conferencing</p> <p>Item No. 01</p> <p>August 03, 2018</p> <p>SS & DV</p>	<p>an appropriate application.</p> <p>18. As regards, the construction of 100 Ft. wide proposed road, learned Counsel for Pune Municipal Corporation has stated that the road was proposed but no steps have been taken so far. The Expert Committee has stated that the Committee could not assess the actual location of piers and its impact on the river bed. Construction of road around 7.4 km. may have major impact on multiple parameters of the environment. The Committee recommended as follows:-</p> <ul style="list-style-type: none"> • <i>Comprehensive 3D mapping of the region using drone based 360 degree survey.</i> • <i>Superimposition of road alignment and construction activity on current features to visualize impacts.</i> • <i>Detailed Environmental Impact Assessment (EIA) and Environmental Management Plan based on analysis of alternatives.”</i> <p>19. We make it clear that as and when proposed 100 Ft. wide road is taken up, the recommendations of the Committee will be fully complied with and the Committee will assess the actual location of piers and its impact on river bed.</p> <p>This application is disposed of accordingly.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">03.08.2018</p>
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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1054 OF 2019

SARANG YADWADKAR & ORS. ... APPELLANT(S)

VS.

PUNE MUNICIPAL CORPORATION & ORS. ... RESPONDENT(S)

O R D E R

We see no reason to interfere with the impugned order. However, it is admitted that the appellants' view has not been taken into account by the Committee constituted for the purpose of this project. We, therefore, consider it appropriate to direct that the Committee shall give a hearing to the appellants on a fixed date and consider the objections and the evidence produced by them in their support. The Committee shall thereupon accommodate the appellants' objections and suggest any suitable modification, if required, which shall be carried out by the respondent-Authorities. If the Committee does not uphold the objections it may give reasons. In that case, the appellants may approach the National Green

Tribunal. The appellants shall be entitled to resort to any remedy available to them in law.

We consider it appropriate to observe that the matter should be dealt with as expeditiously as possible, having regard to the fact that this is a funded project which needs to be completed according to the schedule in public interest.

The civil appeal and all pending applications are disposed of in the above terms.

.....J.
[S.A. BOBDE]

.....J.
[DEEPAK GUPTA]

New Delhi;
15th February, 2019.

ITEM NO.15

COURT NO.3

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).1054/2019

SARANG YADWADKAR & ORS.

Appellant(s)

VERSUS

PUNE MUNICIPAL CORPORATION & ORS.

Respondent(s)

(Permission to file addl. documents/facts/annexures)

Date : 15-02-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Appellant(s) Mr. R. Basant, Sr. Adv.
 Ms. Rashmi Nandakumar, AOR

For Respondent(s) Mr. Tushar Mehta, SG
 Mr. S.K. Mishra, Sr. Adv.
 Mr. Mehul M. Gupta, Adv.
 Mr. Kaustubh Deogade, Adv.
 for Mr. R.P. Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R

The civil appeal is disposed of in terms of the signed order.

(Sarita Purohit)
AR-cum-PS

(Indu Kumari Pokhriyal)
Assistant Registrar

(Signed order is placed on the file)

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 28/2020 (WZ)

Sarang Yadwadkar & Ors.

Applicant(s)

Versus

Pune Municipal Corporation & Ors.

Respondent(s)

Date of hearing: 07.07.2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant(s) : Mr. Rahul Choudhary and Ms. Kanika Sood,
Advocates

ORDER

1. By filing the present application, it has been submitted that the Expert Committee has admittedly found that the assessment of the metro construction on the river has been inadequate and based on incorrect data that has been supplied by respondent no. 9. The study has also failed to address the primary concern of flooding due to the impediments caused by the metro construction to the natural flow of river thereby increasing though probability of frequent flooding.
2. We deem it just and proper to constitute a Committee consisting (i) Delhi Metro Rail Corporation Ltd. (DMRC), (ii) Maharashtra State Pollution Control Board (MSPCB) and (iii) Maharashtra Metro Rail Corporation Ltd. (MMRC) (iv) Pune Municipal Corporation and to direct to submit a joint report a within three weeks.
Maharashtra State PCB will be the nodal agency for compliance.

3. Let a joint report in the matter be filed by Maharashtra State PCB by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.
4. The applicant is directed to immediately supply the copy of the application and relevant paper to the Committee through Maharashtra State PCB and also send the paper on e-mail.
5. List it on 07.08.2020.

Sheo Kumar Singh, JM

Dr. Satyawan Singh Garbyal, EM

Siddhanta Das, EM

July 07, 2020
Original Application No. 28/2020 (WZ)
R

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 15 OF 2021
WITH
INTERIM APPLICATION NO. 1320 OF 2021**

Sarang Yadwadkar and Ors.	}	Petitioners
Versus		
The Pune Municipal Corporation and Ors.	}	Respondents

Ms.Ronita Bhattacharya for the petitioners.

Mr.Abhijit P. Kulkarni for respondent no. 1.

Mr.P.P.Kakade-Government Pleader with Mr.M.M. Pable-AGP for State.

Mr.Surendra Mishra-Senior Advocate with Mr.Pralhad Paranjape, Mr.Kaustubh Deogade, Mr.Manish Kelkar and Ms.Dhruti Datar for respondent no.6 (MMRCL).

Ms.Jaya Bagwe i/b. Ms.Sharmila Deshmukh for respondent no.4 (MPCB).

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- AUGUST 26, 2021

PC :-

1. After hearing progressed to some length, the learned advocate for the petitioner seeks leave to withdraw the PIL petition with liberty to raise all contentions before the National Green Tribunal in the pending proceedings initiated by them.

2. The PIL petition is allowed to be withdrawn with liberty as prayed for.

3. In view of the disposal of the PIL petition, the interim application does not survive and stands disposed of as such.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

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J V

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