

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE BENCH AT CHENNAI**

(Memorandum under Section 18(1) read with Section 14, 15, of the NGT Act,  
2010)

**Original Application No. 175 of 2024 (SZ)**

Mr. Lalit Kumar R.Shah,  
No.2C, AdetiKunj Apartment,  
Old No.29, New No.20, Balfour Road,  
Chennai 600 010.

... Applicant

:Vs:

1. Chennai Metro Rail Ltd., (CMRL)  
represented by its Managing Director,  
No.327, Anna Salai, Nandanam,  
Chennai 600 035.
2. Tata Projects Ltd.,  
represented by its Managing Director,  
One Boulevard Street,  
Lake Boulevard Road,  
Powai, Mumbai 400 076.
3. Central Pollution Control Board,  
represented by Member Secretary,  
PariveshBhawan, East Arjun Nagar,  
Delhi – 110 032.
4. The District Collector,  
Fourth Floor,  
M.SingaravelarMaaligai,  
No.62, RajajiSalai, Chennai Collectorate,  
Chennai 600 001.
5. Chennai Metropolitan Development Authority,  
represented by Commissioner,



Thalamuthu- NatarajanMaaligai,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai 600 008.



... Respondents

**REPLY FILED ON BEHALF OF THE 2<sup>ND</sup> RESPONDENT**

The 2<sup>nd</sup> Respondent begs to state as follows:-

1. At the outset, the 2<sup>nd</sup> Respondent denies all the allegations contained in the Application filed by the Applicant save those that are hereinafter specifically admitted and puts the Applicant to strict proof of such of those allegations that are not specifically hereinafter admitted.
2. The 2<sup>nd</sup> Respondent states that the relief sought for by the Applicant is misconceived and is liable to be dismissed in limine since the Applicant seeks to stop all construction activities at Balfour Road, Kilpauk, Chennai 600 010. The relief is vague, too general and contrary to public interest and economic development.
3. It is submitted that Indian cities are growing rapidly. There is a need for planned growth with adequate attention to the transport system. Cities are witnessing fast growth in the number of personal motor vehicles, with severe congestion and pollution being the most visible manifestation of the growth in the number of motor vehicles. Strengthening the public transport system is the panacea for these problems. This would require implementation of Mass Transit systems such as metro rail etc. Mass Rapid Transit Systems in urban cities like Chennai not only facilitate easy and quick movement of people but also have a positive impact on the economic growth and quality of life. The same results in increased income and various benefits to the society like reduced external cost due to reduction in traffic congestion, road and parking cost, transport cost and per-capita traffic accidents. Mass Rapid Transit Systems tend to reduce per capita vehicle ownership and usage and encourage more compact & walkable development pattern which provide developmental benefits to the society. Reduction in cost and time of travel lowers the cost of production of goods and services which significantly improves city's competitiveness.



One of the significant contributions is substantial reduction in per capita pollution emission bringing down various chronic diseases; hence, results in huge public health benefits. The 1<sup>st</sup> Respondent is thus implementing the setting up of Metro Rails in the city of Chennai.

4. It is submitted that the 2<sup>nd</sup> Respondent is a contractor who is executing the works pertaining to the construction of four underground stations at Otteri, Pattalam, Perambur Barracks Road and Kellys and works other than Diaphragm Wall of two underground station at Ayanavaram and Purasiwakkam Station cum cross over box in corridor 3 of CMRL Phase - II Project. These works were awarded by the 1<sup>st</sup> Respondent to and in favour of the 2<sup>nd</sup> Respondent on 02.06.2023 and the commencement date of project was 07.07.2023. The period of completion is 1550 days from 07.07.2023 which expires on 04.10.2027. The project is being executed in public interest since the project is intended to provide fast, convenient, efficient, modern and economic mode of public transport system in order to decongest the ever growing road traffic in the city of Chennai. Such a project of public importance is sought to be stalled on frivolous and untenable grounds including noise, air and dust pollution without any basis. Further, the works that are being put up are of great public importance which will benefit the public at large including the Applicant herein. Hence the application is liable to be rejected in limine.

5. Without prejudice to what has been stated above, the 2<sup>nd</sup> Respondent craves leave to traverse the allegations contained in the application in seriatim:

a) The averments contained in Paras 1 to 3 are not adverted to. It is reiterated that the 2<sup>nd</sup> Respondent is a contractor under the 1<sup>st</sup> Respondent.

b) The averments contained in Para 4 are denied. These allegations pertain to the feasibility of the project conceived by the 1<sup>st</sup> Respondent herein and the 2<sup>nd</sup> Respondent has no comments to offer. The 2<sup>nd</sup> Respondent states that the Applicant lacks the competence or skill or qualification to comment on the feasibility of the project report of the 1<sup>st</sup> Respondent especially with respect to the distance between two underground stations. The allegation that the construction activity is causing noise pollution, air pollution, dust pollution and disruption of sewage line



and water supply lines is denied as false and baseless. The 2<sup>nd</sup> Respondent herein has conducted an environmental baseline monitoring before the commencement of its works to monitor and analyse the parameters with respect air, noise, water and stack emission. The 2<sup>nd</sup> Respondent has also appointed a third-party expert for carrying out the environmental baseline monitoring activities and these baseline parameters are under the permissible limits as per the Contract requirements of Chennai Metro Rail Limited. Therefore, all allegations to the contrary are denied. The allegation that the Respondent have put their own lines for sewage and water which is below standard resulting in frequent busting of the lines or overflowing of sewage water is denied as false. The 2<sup>nd</sup> Respondent has received no such complaint and the quality of the materials used by the 2<sup>nd</sup> Respondent cannot be questioned since they are purchased from approved vendors of the 1<sup>st</sup> Respondent. The allegation that the foundation of the buildings has weakened, and that the electricity supply lines, and telephone lines have been disrupted is denied and the Applicant is put to strict proof of the same. The allegation that heavy machineries are being used day and night which is causing vibrations beyond acceptable limits is denied as false. It is submitted that the trench cutting activity is very critical for construction of diaphragm walls in under ground station works and trench cutting process is required to be carried out continuously for 24 hours or more depending on the geological condition of the site. Any break in trench cutting process would lead to instability and collapse of surrounding soil thus affecting safety of the entire vicinity of the construction site. It is submitted that machineries such as trench cutters, JCB breakers, pneumatic breakers, etc., are being used to execute the works within the strict time limits prescribed under the Contract with the 1<sup>st</sup> Respondent. It is submitted that the 2<sup>nd</sup> Respondent has fixed acoustic sound proof panels on the trench cutter machine which has significantly reduced the sound emission from trench cutter. The allegation that the construction activity has caused dust pollution is denied as false and baseless. Water sprinkling is being done four times on daily basis in the station area and the vicinity to control dust.

- c) The averments contained in Para 5 are denied. The allegation that the usage of heavy machinery like trench cutters, heavy duty crawler



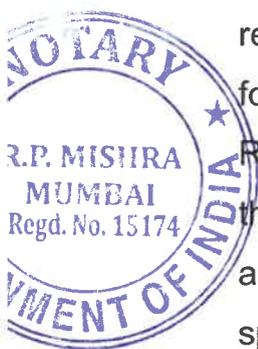
*N. S. Srinivas*



cranes, JCB and Caterpillar bulldozers, jack hammers, tipper trucks has caused noise pollution is denied as false. The allegation that usage of these machineries generates noise levels between 75 dba and 110 dba when operated individually as per environmental impact assessment of the 1<sup>st</sup> Respondent is denied. The 2<sup>nd</sup> Respondent states that the Petitioner has referred to the EIA reports published during January 2022 and October 2023. However, the 2<sup>nd</sup> Respondent was awarded the contract only on 02.06.2023 and the works were commenced only the 02.07.2023. The 2<sup>nd</sup> Respondent has conducted an environmental baseline monitoring through an external consultant who has confirmed that the parameters are within the permissible limits both during day and night w.r.t the limits specified by the 1<sup>st</sup> respondent. Further, the 2<sup>nd</sup> Respondent categorically states that the machineries like, breakers, jack hammer are used to execute the works within the strict time limits prescribed under the Contract with the 1<sup>st</sup> Respondent. It is submitted that the 2<sup>nd</sup> Respondent has fixed acoustic sound proof panels on the trench cutter machine which has significantly reduced the sound emission from trench cutter.

- d) The averments contained in Para 6 is denied and the same pertains to EIA report and hence not adverted to. The allegations regarding the alleged sufferance of the residents on account of the noise, air and light pollution and the alleged financial suffering, alleged closure of business is denied as false. It is submitted that the 2<sup>nd</sup> Respondent is carrying out the contract awarded by the 1<sup>st</sup> Respondent which is a statutory body. The allegations of noise, air and light pollution are thus denied. It is reiterated that the works are being executed in public interest and not for the benefit of any private individual. It is reiterated that the 2<sup>nd</sup> Respondent has conducted an environmental baseline monitoring through an external consultant who has confirmed that the parameters are within the permissible limits both during day and night w.r.t the limits specified by the 1<sup>st</sup> Respondent.

- e) The averments contained in Paragraphs 7 and 8 are denied as false. The allegation that the 2<sup>nd</sup> Respondent has given up their principles and policies and seems to be compromising in many issues is denied as false. The 2<sup>nd</sup> Respondent takes serious objections to such baseless and loose statements. The 2<sup>nd</sup> Respondent has always been and would



*D. Radwan*



continue to abide by all statutory regulations. Any allegation to the contrary is denied as false. It is reiterated that the 2<sup>nd</sup> Respondent has not violated the rights much less the fundamental rights guaranteed under the constitution or any of the orders/judgments passed by the constitutional Courts. These averments are general, vague and bereft of material particulars and hence do not merit any response.

- f) The averments contained in Paras 9 to 13 pertain to the Metro Rail Station, its route, the number of stations, the cost estimate, and the alleged delay in constructing the stations. It is reiterated that the 2<sup>nd</sup> Respondent is only a contractor under the 1<sup>st</sup> Respondent and hence these allegations are not adverted to.
- g) The averments contained in Para 14 to 18 are denied as false and baseless. The allegations in this regard are denied. The allegation that Balfour Road, Kilpauk, is a silent zone and that construction activity shall not be carried out during the night using bulldozer, cranes, trenching machines and on public holidays and religious holidays is denied as false. It is submitted that Kilpauk is classified as a mixed zone i.e. Commercial and residential as per the EIA and the Applicant is put to strict proof of the allegation that Kilpauk is a silent zone. The allegation that pneumatic drillers is being used despite the same being banned on account of abnormal noise is denied as false. The allegation that huge noise is produced when the steel barricades are broken using sledge hammers and on account of steel banging on steel especially on night is denied as false. During night hours hammering activities if any, are being done using wooden packing to control noise on account of steel banging and hence the allegation in this regard is denied. The allegation that these heavy machineries are run with diesel engines without there being any emission check is denied as false. It is submitted that the emissions are within permissible limits. The allegation pertaining to the digging of test pits is denied. The allegation relating to the non-usage of acoustic barrier is also denied as false. The 2<sup>nd</sup> Respondent has installed acoustic barriers around the trench cutter which has reduced the noise levels substantially.

- h) The averments contained in Para 19 to 26 are denied. The allegations pertain to the entrance of the apartment belonging to the Applicant's



*Q. Adwani*



sister. The allegation that there was no traffic marshal to control the movement of vehicles is being denied. The allegation that the sister of the Applicant got hurt on account of a speeding two-wheeler is denied. The 2<sup>nd</sup> Respondent sympathizes with situation of the Applicant's sister, however states that the traffic in and around the construction area is being marshalled by a duly appointed traffic marshal 24 x 7. Any allegation to the contrary is denied. The allegation that the trench cutting machine is placed at a distance of 1 meter from the house of the Applicant is denied. It is submitted that the Trench cutter machines are kept about 3.5 metres away from any structure. In fact, the 1<sup>st</sup> Respondent - CMRL has provided 3.0 metre width all-round the underground station as working area. Therefore, no machinery is operated close to the building as being alleged. The allegation that the vibration created while digging the earth may damage the cables and may damage the building is denied as false. The allegation that on account of the heavy machinery being deployed the residents are not able to sleep properly resulting in regular medical check-ups resulting in expenditure of Rs.20,000/- is denied as false. The allegations regarding the usage of heavy machinery are denied as repetitive.

h)i) The averments contained in Ground 1 and 2 are denied as false. After, the commencement of works by the 2<sup>nd</sup> Respondent the parameters are well within the limits set forth by the 1<sup>st</sup> Respondent.

h)ii) The averments contained in Ground 3 to 5 are denied. It is reiterated that machineries such as trench cutters are being fitted with acoustic soundproof panels which has significantly reduced the sound emission from trench cutter. In carrying out the works the 2<sup>nd</sup> Respondent has not violated any basic or fundamental rights of any of residents. It is submitted that the works have to be executed in a time bound manner and hence works are being executed at a fast pace. However, the 2<sup>nd</sup> Respondent has been and continues to be sensitive to the issues raised by the residents as a result of which the machineries such as trench cutters are fitted with acoustic sound proof panels significantly reducing the sound emission. The labourers of the 2<sup>nd</sup> Respondent work in shifts and not 24 \* 7 as falsely alleged by the Applicant. In any event the 2<sup>nd</sup> Respondent is compliant with all labour laws and there has been no grievance from the labourers which established that these



allegations are false and baseless. It appears that the Applicant is espousing the cause of third parties including labourers and the public without there being any direct grievance for the Applicant.

j/k) The averments contained in Ground 6 to 8 are denied. The 2<sup>nd</sup> Respondent is carrying out the works in accordance with the plan duly approved by the 1<sup>st</sup> Respondent herein. The allegation regarding sewage water entering the basement portion of the Applicant's building is denied. The allegation of the Applicant's building undergoing vibrations is also denied. The 2<sup>nd</sup> Respondent herein have conducted a Building Condition Survey during 2022 before the start of works and in 2024 after the works were started to assess the damages in building, if any. It is relevant to note that several slight cracks were observed during 2022 and no significant differences in building cracks were found in 2024. The allegation that the basement walls have become on account of seepage of water is denied.

a) The averments contained in Ground 9 and 10 are denied. It is reiterated that machineries such trench cutters are fitted with acoustic soundproof panels significantly reducing the sound emission. Further, the equipment and machineries are monitored and fitted with pollution control equipment and hence the allegations regarding emissions are denied as false.

b) The averments contained in Ground 11 to 14 relate to the observations in the EIA Report published during 2023. It is submitted that the 2<sup>nd</sup> Respondent herein has engaged third party experts who have monitored the environmental baselines and found the parameters to be well within the acceptable limits set by the 1<sup>st</sup> Respondent. Consequently, the allegation in this regard is denied

c) The averments contained in Ground 15 to 22 are denied as false and repetitive. The Applicants averments are not backed by any documents. The allegations regarding substandard temporary sewage line being fitted, the medical ailments suffered by the Applicant and other senior citizens, the disconnection of electricity cables, disturbed sleep during nights, emissions resulting in air pollution are denied as false and repetitive. It is reiterated that the 2<sup>nd</sup> Respondent has been



compliant and continuous to be compliant with all rules and regulations and laws. It is reiterated that machineries such as trench cutters are fitted with acoustic soundproof panels significantly reducing the sound emission.

For the reasons stated above the Hon'ble Tribunal may be pleased to dismiss the application and pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.

Dated at Mumbai on this the 30 day of July 2024

*PJ Singh*

Counsel for 2<sup>nd</sup> Respondent.

*R. Gadwani*

2<sup>nd</sup> Respondent



**VERIFICATION**

I, Rahul Jadwani, the Deputy General Manager- Legal of the 2<sup>nd</sup> Respondent Company, having its office at One Boulevard Street, Lake Boulevard Road, Powai, Mumbai 400 076, do hereby solemnly affirm and sincerely state that the contents above are true to the best of knowledge, belief and information.

Dated at Mumbai on this the 30 day of July 2024



2<sup>nd</sup> Respondent



ATTESTED BY ME  
  
**R.P. MISHRA**  
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30 JUL 2024



**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE BENCH AT CHENNAI**

(Memorandum under Section 18(1) read with Section 14, 15, of the NGT Act,  
2010)

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Mr. Lalit Kumar R.Shah,  
No.2C, AdetiKunj Apartment,  
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... Applicant

:Vs:

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No.327, Anna Salai, Nandanam,  
Chennai 600 035 & 4 Ors.

... Respondents

**REPLY FILED ON BEHALF OF THE 2<sup>ND</sup> RESPONDENT**

**M/s. P.J.RISHIKESH (1389/2004)  
P.J. SRI GANESH (1796/2010)  
P. ELAKKIYA (2275/2020)**

**COUNSEL FOR 2<sup>ND</sup> RESPONDENT  
9884862677**