

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONAL BENCH AT PUNE
ORIGINAL APPLICATION NO. 28 OF 2020

IN THE MATTER OF:

Sarang Yadwadkar and Ors.

...APPLICANTS

VERSUS

Pune Municipal Corporation and Ors.

...RESPONDENTS

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Date: 16.08.2021

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REJOINDER ON BEHALF OF APPLICANT NO.1 IN REPUDIATION TO THE
AFFIDAVIT-IN-REPLY FILED BY THE RESPONDENT NO.6 DATED 16.06.2021

Most Respectfully Showeth:

1. That the above titled application has been filed under Section 14, 15 and 20 of the National Green Tribunal Act, 2010, against the construction of the Pune Metro inside the Blue Flood Line on the 'Prohibitive Zone' of Mutha riverbed. That the applicants herein are seeking an alternative alignment of the Pune Metro as already shown in the sanctioned Development Plan for the protection of floodplains and to avoid steep rise in flood levels and additional submergence of the densely populated parts of Pune city.
2. That the instant rejoinder is being filed in response to Affidavit-In-Reply of Respondent No. 6, i.e., Maharashtra Metro Rail Corporation Ltd. ('MMRCL') dated 16.06.2021, wherein the MMRCL has submitted the Final Report of the Central Water and Power Research Station ('CWPRS') Pune dated January 2021.
3. It is submitted that the CWPRS Report unequivocally suggests that there is likely to be enormous increase in submergence (up to 55.76 M. i.e., 183 Ft.) caused due to construction of the impugned Pune Metro on the Prohibitive Zone of the

Mutha riverbed. That such CWPRS Final Report had previously been submitted by the Applicant on 18.02.2021 vide I.A. No. 13/2021/WZ.

**SUBSTANTIAL ADDITIONAL SUBMERGENCE DUE TO CONSTRUCTION
IN RIVERBED WITH NO MITIGATION MEASURES PROVIDED**

4. It has been previously submitted by the Applicant in I.A. 13/2021/WZ that the CWPRS Final Report has clearly pointed to substantial increase in water surface elevation after the introduction of Metro Piers along the stretch of the entire impugned project. That the Applicant has previously submitted that allowing the impugned project within the floodplains of the river drastically reduces the flood carrying capacity of the river and inevitably increases the chances of flooding in the densely populated localities.
5. That Table 7 of the said CWPRS Final Report provides the Water Surface elevation levels and the additional submergence before and after the introduction of impugned Metro Piers. That the relevant extracts of Table 7 accordingly read:

Table 7: Water Spread for the discharge of 1,00,000 ft³/S (Page 657)

Location	Water Surface Elevation After introduction of Metro Pier (M)	Water Surface Elevation Before introduction of Metro Pier (M)	Additional Waterspread due to metro construction (M)
P 159	285.24	263.04	<u>22.20</u>
P 160	283.31	262.70	<u>20.61</u>
Z Bridge	325.40	295.56	<u>29.84</u>
P 167	287.39	222.63	<u>55.76</u>

6. It is submitted that Table 7 as abovementioned is unequivocal evidence that there is an additional submergence of upto 55.76 Meters (183 Ft.) in the most densely populated part of the city. That various other areas with hundreds of houses are also dangerously affected and at risk of massive inundation in case of heavy rains or release of water from upstream reservoir. It is submitted that this

relevant and alarming information has not been treated with requisite seriousness by the Respondent Authorities.

7. It is further submitted that **Para 3 (xvi) (b.), Pg620** of the Affidavit-In-Reply of MMRCL dated 16.06.2021 quotes the 7th Expert Committee Meeting dated 8.03.2021 as follows:

*"b... The answering Respondents submits that though the discharge at 1,00,000 cusecs in accordance with the CWPRS report seems to be high at 3 metro piers – Pier 159-22, Pier 160 – 20.61, Pier 167 checked road in right – 55.76 it is due to the topography of the said site and the answering Respondent would hasten to add that in the last more than 56 years there has been no discharge even once of 1,00,000 cusecs. The answering Respondent submits that the Expert Committee in its meeting has already noted the fact that the CWPRS scientist has also pointed out that **in the last more than 56 years, the discharge of 60,000 cusecs has been breached only 4 times and that 1,00,000 cusecs has not been breached even once.** The Expert Committee in its meeting has also noted the response of the CWPRS that the incremental inundation to the extent of 55.76 m at Pier no. 167 is due to the specific topography at the location, there is a low-level cross road connecting the river-front road and Kelkar road at this location..."*

(emphasis supplied)

8. That such a statement is indicative of the ignorance of the Expert Committee members and the Respondent authorities, because the discharge of 60,000 CuSecs is expected once in 25 years, which is the standard of demarcation for the Blue Flood Line (Flood level once in 25 years).
9. That therefore, if the Blue Flood Line has been breached 4 times in last 56 years, it clearly means the flood frequency has increased from 25 years to 14 years. This fact being quoted by MMRCL therefore only strengthens the stand of the Applicants.
10. Further the discharge of 1,00,000 CuSecs is expected once in 100 years, and such is the standard of demarcation for Red Flood Line. That therefore, the statements made by the Expert Committee being quoted by the MMRCL not only point to the ignorance and improper understanding of the Respondent Authorities but strengthen the viewpoint of the Applicants.
11. Despite evidently higher likelihood of inundation due to construction of the impugned project, the Expert Committee constituted by this Hon'ble Tribunal has

completely failed to provide any scientific mitigation measures. This is evident upon perusal of 'Minutes of 7th Meeting' of the Expert Committee dated 8.03.2021 as on **Pgs 794-796**. That in reference to the increased inundation caused due to impugned project, the Expert Committee 7th Meeting Minutes, at **Para 6, Pg. 795** accordingly state as follows:

"6. Appropriate mitigation measures to be adopted to reduce the inundation extent at critical points."

12. It is submitted that such statement is an entirely meaningless as the Expert Committee does not specify even a single mitigation measure. It is further submitted that any measure which is to be taken cannot be done at 'critical points' but will be applicable to the entire stretch of the impugned project.

ADMISSION OF ERROR IN PREVIOUS CALCULATIONS OF RIVER WIDTHS BY RESPONDENT NO. 6 AND EXPERT COMMITTEE

13. MMRCL has accepted that there are errors in calculations undertaken by them owing to incorrect river widths and cross-sectional data. That a 'Technical Note' dated 5.12.2019 has been submitted by MMRCL to Expert Committee constituted in a separate O.A. 70/2019/WZ., which has been annexed to MMRCL's Affidavit-In-Reply dated 25.08.2020, at **Pgs 265-296**.

14. As per **Pg. 267**, MMRCL has accepted their errors in calculating river widths, and has accordingly stated:

*"Subsequently in the matter other NGT order dated 5.11.2019 (Application No.70/2019(WZ) highlighted that the width of the river has been misinterpreted. **On verification it was found that due to manual digitisation of pdf file an error had indeed occurred** which has now been rectified by using the recent data from irrigation department."*

(emphasis supplied)

15. This is therefore absolute evidence of the fact that incorrect information regarding river widths has been used while computing the rise in flood levels and the effect of the impugned project in increasing water levels and inundation of floodplains. Despite rectification of such information done by the CWPRS Final

Report dated January 2021, no additional mitigation strategy or measures have been proposed by the MMRCL whatsoever.

FAILURE TO ADHERE TO ORDER OF THIS HON'BLE TRIBUNAL DATED 7.07.2020

16. That as per interim order dated 07.07.20 in the present Application, this Hon'ble Tribunal has been pleased to appointed a new committee to look in to this matter. That this Hon'ble Tribunal accordingly ordered as follows vide order dated 7.07.2020:

"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."

17. That such Joint Report was to be submitted within 3 weeks of the said order dated 7.07.2020. However, no Joint Report was submitted. As the report was not submitted in time by the committee, this Hon'ble Tribunal vide interim order dated 07.08.2020 directed as follows:

*"1. In compliance of the order dated 07.07.2020, the required report/reply has not been submitted till date. Learned counsel has sought time. **Report be submitted within three weeks.**"*

(emphasis supplied)

18. However, despite over 13 months having passed since the said order dated 7.07.2020, the Joint Report as sought for by this Hon'ble Tribunal is still awaited. It is pertinent to note that the committee which is supposed to file this report is comprised entirely of Respondents to the present Application, and therefore, there is a likelihood of conflict of interests arising.

INCONSISTENCIES WHILE CONSIDERING FLOW FROM FREE CATCHMENT AREA

19. It is further submitted that the 'Minutes of the 7th Meeting' of the Expert Committee dated 08.03.2021 observed the following with regards to river water flow from local catchment area:

"The CWPRS scientist highlighted in their presentation that the contribution of discharge from the local catchment downstream of Khadakwasla dam to Sangam Bridge will only yield about 8500cusecs."

20. However, it is submitted that this statement is being made without any supporting evidence or any scientific study or survey conducted by CWPRS, or any other authority.
21. It is submitted that the abovementioned statement is contrary to the findings of an earlier survey conducted by Respondent No. 1, Pune Municipal Corporation, through an organisation, "Primemove". That such earlier survey clearly states that the flow from the free catchment area is far greater than the figures of '8500 cusecs' quoted by the Expert Committee.
22. It is therefore submitted that the Respondent No. 1 may file an affidavit with respect to this flow from the free catchment areas down stream of Khadakwasla Dam.

PRAYER

That in light of the above facts and circumstances, it is most respectfully prayed that by appropriate orders or directions, this Hon'ble Tribunal may be pleased to:

- A. Direct CWPRS to prepare submergence maps with and without metro pillars for the peak discharged from the upstream dam and the highest inflow thereafter from the free catchment area.
- B. Direct the Project Proponents or the CWPRS to file an affidavit with respect to the flow of 8500 CuSecs from the free catchment area downstream of Khadakwasla Dam.
- C. Direct that the riverbed construction of the impugned project shall be stayed till final order in the present Application is passed and the present Application is decided.

Pass any such Order deemed fit by this Hon'ble Tribunal in the facts and circumstances of the case.

APPLICANT NO. 1

THROUGH

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VERIFICATION

I, Sarang Yadwadkar, r/o A-9, Pradnyangad Apartments, S. No. 119/3 Sinhagad Road, Pune – 411030 do hereby solemnly affirm and state as under:

1. That I am the Applicant No.1 in the above titled Application and I am conversant with the facts and the circumstances of the case and competent to swear this affidavit.
2. That that the contents of the present Application are true to my knowledge and/ or based on information, and/or the contents are based on the legal submission and/or inferences of facts, which I believe to be true.

Date:

Place:

APPLICANT NO.1



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AFFIDAVIT

I, Sarang Yadwadkar, r/o A-9, Pradnyangad Apartments, S. No. 119/3 Sinhagad Road, Pune – 411030 do hereby solemnly affirm and state as under:

1. That I am the Applicant No.1 in the above titled Application and am conversant with the facts and circumstances described in the present case and as such, I am competent to swear this affidavit.
2. That the contents of the accompanying Application are true and correct and nothing material has been concealed therefrom.

[Signature]
DEPONENT

VERIFICATION

Verified on this 16th day of August 2021 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.

[Signature]
DEPONENT

BEFORE ME

[Signature]
ANIL LAXMAN BHOSALE
NOTARY GOVERNMENT OF INDIA, PUNE
REGD. No. 3974

Noted And Registered At
Serial Number 1091/2021
13 AUG 2021

