

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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Place: Delhi/Pune

Date: 15.11.2021

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONAL BENCH AT PUNE

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**REJOINDER ON BEHALF OF APPLICANT NO.1 IN REPUDIATION TO
AFFIDAVIT-IN-REPLY FILED BY PMC DATED 5.10.2021**

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 within the Blue Flood Line or the 'prohibitive zone' of the Mutha and Mula-Mutha rivers. That the applicants herein are seeking an alternative alignment of the Pune Metro for the protection of ecologically sensitive floodplains.
2. The Applicant submits that the impugned project is likely to lead to a significant increase in additional submergence of floodplains caused due to construction of the impugned Pune Metro within the prohibitive zone (within Blue Flood Line) of the Mutha and Mula-Mutha rivers.
3. That the Pune Municipal Corporation ('PMC') has filed Affidavit-In-Reply dated 5.10.2021, wherein the PMC has stated that the construction for the impugned project on the riverbed cannot be stopped, as on Para 4, Pg. 823.
4. The Applicant denies all the submissions made by the PMC in Affidavit-In-Reply dated 5.10.21. The Applicant further submits that constructions within Blue Line proposed by the impugned project are in violation of orders of this Hon'ble Tribunal, as well as prior undertakings and assurances of the PMC itself. That this Hon'ble Tribunal has passed an order dated 11.07.2013 in *O.A. 2 of 2013*

titled Sarang Yadwadkar and Ors. v. The Commissioner, PMC and Ors., wherein this Hon'ble Tribunal explicitly directed PMC to ensure no future construction within the Blue Line of the river. This Hon'ble Tribunal accordingly ordered as follows:

"38.(g) As already noticed and highlighted during the course of the hearing, a large number of structures have come up at and even inside the blue line of the river Mutha. Respondent No.1 itself has issued notice to some of such structures for demolition. Thus, in the peculiar facts and circumstances of the case, we further direct that Respondents No. 1, 3 and 4 shall take appropriate steps against unauthorized constructions, if any, raised on and inside the blue line and pass order of demolition or such order as is permissible in accordance with law. 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."

(emphasis supplied)

A copy of the relevant extracts of the order dated 11.07.2013 in O.A. 2 of 2013 is annexed and marked herewith as **ANNEXURE A-1.**

5. It is pertinent to note that in the same *O.A. 2 of 2013*, the PMC has filed Affidavit in Reply wherein the Commissioner, PMC has unconditionally assured that no future construction will be permitted by PMC within the Blue Line. Accordingly, the PMC had submitted before this Hon'ble Tribunal as follows:

"1.1 That Respondent No.1 undertakes not to permit in future any building construction activities within the blue line."

(emphasis supplied)

A copy of the Affidavit in Reply filed by the PMC in O.A. 2 of 2013 is annexed and marked herewith as **ANNEXURE A-2.**

6. However, despite the above-mentioned order of this Hon'ble Tribunal, in addition to the Affidavit filed by the PMC itself in the said O.A. 2 of 2013, the impugned project has been permitted to proceed with construction within prohibitive zone, i.e, being within the Blue Flood Line.
7. It is therefore submitted that this Hon'ble Tribunal may kindly take cognizance of the above-mentioned submissions and accordingly grant the relief sought for by the Applicant in light of the facts and circumstances of the present case.
Pass any such Order deemed fit by this Hon'ble Tribunal in the facts and

circumstances of the case.



APPLICANT NO.1



RITWICK DUTTA



RAHUL CHOUDHARY

MAITREYA GHORPADE

COUNSEL FOR THE APPLICANT

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Ph: 93124 07881

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 Rejoinder 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:

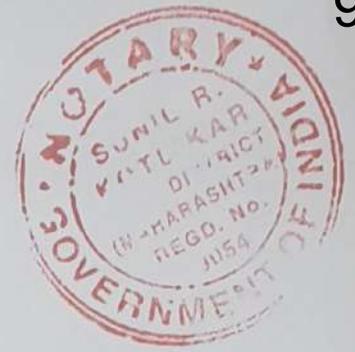
Place:



APPLICANT NO.1

BEFORE THE 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

AFFIDAVIT

I, Sarang Yadwadkar, r/o A-9, Pradnyangad Apartments, S. No. 119/3 Sinhgad 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 Rejoinder are true and correct and nothing material has been concealed therefrom.



[Signature]
DEPONENT

VERIFICATION

[Signature]

Verified on this 13th of Nov 2021 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.

[Signature]

[Signature]
DEPONENT



BEFORE ME

[Signature] 13/11/21

SUNIL R. KOTLIKAR
NOTARY, GOVT. OF INDIA
PUNE DISTRICT (MAHARASHTRA)
REGD. No. 31154



Annexure A-1

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

.....

APPLICATION NO. 02 of 2013

In the matter of :

1. Sarang Yadwadkar,
A-90, Pradnyangad Apartments,
S.No.119/3, Behind Navashya Maruti,
Sinhagad Road,
Pune-411030
2. Vivek Velankar,
President, Sajag Nagrik Manch,
1200, Sadashiv Peth, Limaye Wadi,
Pune-411030
3. Parineeta Dandekar,
A-2/402, Kanchanban Apartments,
Shivtirth Nagar, Kothrud,
Pune-411038
4. Dilip Jaywantrao Mohite,
B-28, Pradnyangad Apartments,
S.No. 119/3, Behind Navashya Maruti,
Sinhagad Road, Pune-411030
5. Sanjay Babanrao Bhosale,
244, Bhawani Peth, Mahatma Phule Marg,
Pune-411042
6. Narendra Sunderlal Chugh,
15/3, PWD Quarters, Pimpri Colony,
Pune-411017.

.....Applicants

Versus

1. The Commissioner,
Pune Municipal Corporation, Shivajinagar,
Pune-411004
2. JNNURM Office,
Nirman Bhawan, Maulana Azad Road,
New Delhi

3. The Chief Engineer,
Khadakwasla Irrigation Division,
Irrigation Department,
Govt. of Maharashtra, Sinchan Bhavan,
Barne Road, Mangalwar Peth,
Pune-411011
4. Maharashtra Pollution Control Board,
Through the Regional Officer, Pune,
Jog Centre, 3rd Floor, Mumbai-Pune Road,
Wakadewadi, Pune-411003.

.....Respondents

Counsel for Appellants :

Mr. Asim Sarode, Advocate for Applicant

Counsel for Respondents :

Mr. Arvind S. Avhad & Mr. A.K. Srivastava, Advocates for Respondent No.1.

Mr. Kailash Pandey, Mr. Ranjeet Singh, and Mr. Pravesh Thakur, Advocates for Respondent No.3

Mr. Mukesh Verma & Mr. Ashi Chauhan, Advocates for Respondent No.4

ORDER/JUDGMENT

PRESENT :

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

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

Hon'ble Dr. D.K. Agrawal (Expert Member)

Hon'ble Prof. A.R. Yousuf (Expert Member)

Hon'ble Dr. R.C.Trivedi (Expert Member)

Dated : July 11, 2013

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

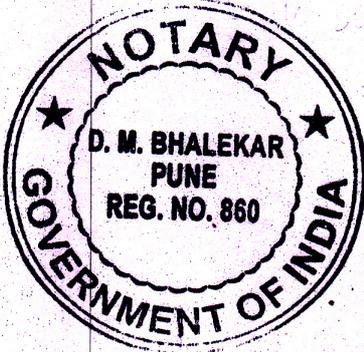
1. The applicant and others, social activists, challenge the construction of the road from Vitthalwadi to National Highway-4

- (b) Respondent No.1 shall make every effort to realign the road to bring it as far as possible closer to and beyond the blue line, right from chainage of 0+400 to 1+750 of Exh. Annexure 2/1. It shall ensure to extend the least part of the project in the river bed/blue line.
- (c) The road/project shall be constructed on elevated pillars alone in the area that falls within the blue line.
- (d) We direct Respondent No.1 to remove the debris dumped at the present site and shift the same to the red line by following 1 in 25 years rule.
- (e) A massive plantation should be undertaken on both sides of the river, also in the no-development zone by Respondent No.1 as well as the State Government of Maharashtra. Adequate protective measures should be undertaken to prevent flooding and submerging of the residential area along the proposed road.
- (f) The conditions imposed by the Chief Engineer, Irrigation Department, vide his NOC dated 15th April, 2013 shall *mutatis mutandis* be part of the present directions. The same shall be read in aid and not in derogation to the conditions stated in this order.
- (g) As already noticed and highlighted during the course of the hearing, a large number of structures have come up at and even inside the blue line of the river Mutha. Respondent No.1 itself has issued notice to some of such structures for demolition. Thus, in the peculiar facts and circumstances of

the case, we further direct that Respondents No.1, 3 and 4 shall take appropriate steps against unauthorised constructions, if any, raised on and inside the blue line and pass order of demolition or such other order as is permissible in accordance with law. 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.

39. The imposition of the above conditions is necessary in the interest of environment and ecology. It is better to take precautions at this stage, even at the cost of additional expenses rather than to face floods, disaster, loss of person and property and irreversible damages to ecology and environment. The precautionary principle, which is a part of the law of the land now and is a Constitutional mandate in terms of Articles 21, 48A and 51A(g) of the Constitution of India, that require the State to safeguard and protect the environment and wild life of the country. It is expected of Respondents No.1 and 3 to anticipate and then prevent the causes of environmental degradation. Furthermore, no public interest would suffer by imposition of the above conditions. If the conditions imposed under this order are found to be onerous by the State, particularly Respondent No.1, then they can even give up the project on river Mutha as an alternative road on the other side of the river has already been constructed to provide the connectivity. In the event the

t.c. Department decides to give up the road project, it shall be



IN THE NATIONAL GREEN TRIBUNAL AT NEW DELHI

IN

M. A. NO. 52 OF 2014

IN

APPLICATION NO. 2 OF 2013

IN THE MATTER OF

SARANG YADWADKAR & ORS. ... PETITIONERS

THE COMMISSIONER

PUNE MUNICIPAL CORPORATION

& ORS ... RESPONDENTS

ADDITIONAL SUPPLEMENTARY AFFIDAVIT ON

BEHALF OF RESPONDENT NO. 1

I, Kunal Kumar, age about 38 years, working as
Municipal Commissioner of the Pune Municipal Corporation



(answering Respondent), Shivaji Nagar, Pune-5 am competent to file the present affidavit on behalf of Respondent No. 1 being fully conversant with the facts of the case and duly authorized to affirm and file this affidavit. I hereby solemnly affirm and state:

1. THAT the Respondent No. 1 is filing the present additional affidavit in respect of compliance of the order and judgment of this Hon'ble Tribunal dated 10/10/2014.

1.1 That Respondent No. 1 undertakes not to permit in future any building construction activities within the blue line. Accordingly, necessary interim orders are being issued by the Respondent No.1 and also the process of minor modifications to the D.C. regulations under Sec. 37 (1) of MR&TP act 1966 to prohibit any such further building construction shall be initiated forthwith.

1.2 Further, with a view to prevent inundation of the low lying areas along the proposed elevated road, it is submitted that a protection embankment was constructed earlier by the Irrigation Department by removing soil & silt from the riverbed (I rely on the letter issued by the Irrigation Department and annexed here as **Exhibit No. 1-a and Exhibit No. 1-b**). Also a Minor Bridge was constructed at chainage 1/770 m. for discharge of storm water from the adjoining catchment areas of



Sinhagad Road side and land side of retaining wall into the Mutha River. Please refer Photograph of existing minor Bridge (Exhibit No. 2). The system had been working satisfactorily ever since. The construction of Retaining wall along the embankment has ensured protection against erosion due to flood water. In addition, the constructed Retaining wall has also ensured there is no sudden inundation due to gushing of water in low lying residential area due to flood. Thus the combination of retaining wall and existing and proposed culverts detailed in 1.3 herein below shall ensure that the inhabitants of residential area are protected from release of flood water on one hand and also from inundation caused due to run off of storm water in the residential area.

1.3 Finally, the answering Respondent No.1 has developed options to ensure that the storm water from catchment area on Sinhagad road side and on land side of retaining wall gets discharged into Mutha river and the same have already been placed on record of this Hon'ble Tribunal. These options were further discussed with experts who opined that, the storm water management system suggested by M/s Primove Consultants, (Option no.1 in our affidavit dtd. 27-08-2014) by providing storm water drains joining river at Chainage 1/770 m. be implemented and provision of R.C.C. box culverts of suitable size with Automatic Flap Gates on river side of Box culvert be adopted. Hence the answering Respondent no. 1 immediately



had referred the issue to the Executive Engineer, Irrigation, Department, Khadakwasla, Pune (**Exhibit No. 3**), who directed to contact the Superintending Engineer, Central Design Organization, Irrigation Department, Nashik (**Exhibit No. 4**). PMC contacted C.D.O., Nashik (**Exhibit No. 5**), The Superintending Engineer, C.D.O., Irrigation department, Nashik have further suggested to take opinion of Navi Mumbai/ Mumbai Municipal Corporation or Koyana Design Circle, Pune. (**Exhibit No. 6**). The answering Respondent No.1 has further contacted The Superintending Engineer, Koyana Design Circle, Pune on 20-10-2014 in person (**Exhibit No. 7**), who has agreed for checking and approving the design of Automatic Flap Gate for the proposed culverts. We are persuing the matter with the above stated expert authorities and thus we hereby undertake to execute drainage system as per the design approved by the aforesaid competent authority. It is to further submit that such culvert as may be found most suitable with Automatic Flap Gate shall be provided between Ch. 1/024 to Ch.1/033 m. and between Ch.1/670 to Ch.1/700 m.

2. THAT in view of the foregoing explanation, it is humbly submitted that the answering Respondent no.1, is making all necessary efforts to give full effect to the judgment of this Hon'ble Tribunal in letter and in spirit. Moreover, all concerns of the citizens as well as of this Tribunal expressed on various occasions are being promptly dealt with and the most efficient



solutions for addressing the concerns are being evolved as is evident from the foregoing. Respondent No. 1 is always ready and willing to take any other further measures to better implement the directions of this Hon'ble Tribunal and shall remain bound by the directions passed by it.

- 3. The contents of paragraph No. 1 to 2, and all the Exhibits herein are true and correct to best of my knowledge and belief.

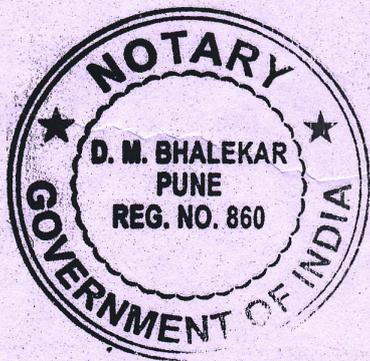
DEPONENT
Municipal Commissioner
Pune Municipal Corporation

VERIFICATION:

I, the deponent above named, do hereby state on solemn affirmation that the contents of the paras 1 to 3 are true and correct to my knowledge and I believe the same to be true and that nothing material has been concealed therefrom.

Verified at Pune on 3/11/2014

DEPONENT
Municipal Commissioner
Pune Municipal Corporation



NOTED & REGISTERED AT
SR. NO. 2131/2014
DATED 3/11/2014

BEFORE ME

D.M. BHALEKAR
Advocate & Notary
Govt. of India
PUNE

t.c.

