

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

I.A. NO. 105 OF 2021

IN

APPEAL NO. 12 OF 2020

IN THE MATTER OF:

Sarang Yadwadkar and Ors. Appellants

Versus

Pune Municipal Corporation and Ors. Respondents

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THOUGH



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Dated:- 21.02.2022

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REJOINDER TO THE REPLY FILED BY RESPONDENT No. 1

MOST RESPECTFULLY SHOWETH:

1. That the Appellant has filed the above mentioned I.A. seeking interim stay on the execution of the activity related to the Mutha and Mula-Mutha river rejuvenation project. The Appellant has raised the issue with respect to the increase of flooding in various parts of Pune city, if the project is executed. The Appellant is filing Rejoinder to the Reply filed on behalf of Respondent No. 1 to the Application. The Appellant submits that the Reply filed by Respondent No. 1 is devoid of any merit and the same is denied unless expressly accepted or are matter of record.
2. That in Para 6, Page 1181 and 1182 of the reply, Respondent No. 1 specifically admits that:

"The answering Respondent states that the Water Resources Department, State of Maharashtra had by their letter/ communication dated 28 October 2021, given directions to the answering Respondent to ensure that there would be no impediment to the flow of river, carrying capacity of the river shall not be reduced and

there shall be no change in the cross section of the river while carrying out the project.”

3. That in Para 7, Page 1182 while referring to a high-level meeting held on 01-11-2021, the Respondent highlights that:

“Water Resource Department has agreed that river cross sections ought to be maintained in order to ensure that there is no reduction in river carrying capacity.”

4. That while trying to justify the “need of the project” in Para 9, Page 1183, Respondent accepts that the rivers are “Heavily polluted”.

Further he states:

“For the major part of the years the three rivers flow with heavily polluted sewage inflow which has a large negative impact on the ground water, water quality, flora and fauna and aquatic life.”

It needs to be noted at this point that not a single component of this project is dedicated to Cleaning water, Treating sewage, Raising the grounds water table, Increasing dissolved Oxygen level, Supporting the natural fauna and aquatic life, Reducing COD/BOD levels.

5. That the Respondent tries to define the objectives of the project in Para 10, Page 1183 and 1184 as:

- I.Clean the river and make it pollution free,
- II.Reduce the risk of flooding,
- III.Create a continuous public realm along river
- IV.Retain water
- V.Improve city’s connectivity to the river,
- VI.Integrate existing heritage structures, recreational, religious and socio-cultural activities.

It is submitted that none of the project component is focusing on cleaning the river and making it pollution free.

Reducing the width of the river by way of channelization is definitely exacerbate the risks of flooding.

Massive embankments are not at all required to create the “public realm” along the river.

Retaining water (by constructing barrages) means obstructing the natural flow of water, further leading to reduction in carrying capacity and deterioration in dissolved Oxygen levels.

Many of the heritage structures which are small temples and Ghats constructed along the natural banks of the river are likely to be buried behind the proposed embankment walls.

So, whatever stated as the “Objectives of the project” is nothing but irreversible destruction of the natural river causing perpetual grave risk of flooding and death of entire biodiversity.

6. That in Para 14, Page 1185, 1186, while talking about the Environmental Clearance issued to the impugned project, Respondent is misleading the Hon’ble Tribunal. It is very clear that the Appellants have raised the basic issues with respect to the EC on following aspects:

- I. Assessment of Barrages
- II. Built area shown in the project
- III. Structures to be demolished in the project etc.

The Respondent has avoided to provided specific rational on these questionable aspects of the EC.

7. That in Para 16b, Page 1187, Respondent is claiming that the project would not cause floods as it is not reducing the flood carrying

capacity of the rivers. This is an extremely vague and baseless statement by Respondent. When the river width is going to get reduced due to the embankments it is bound to raise the afflux levels. It is also crucially important that the Respondent is not following the very specific directions of Water Resources Dept. that, "**there shall be no change in the cross section of the river while carrying out the project.**" Furthermore, it is submitted that the Respondent has not conducted an independent Hydrodynamic study from CWPRS.

8. That in Para 16c, Page 1188, Respondent attempts to provide justification for the barrages. Appellants have to make following submission in this regard:

When there are very specific directions by SEAC (Annexure 15, Page 197), "*PP informed that there are 4 (four) barrages to be constructed at following places:(a) Mula - Kaspate Chowk, (b) Mula - Bund Garden, (c) Mundhwa and (d) Mutha -Garware College. As the Committee has no expert working in this field, the Committee has not gone into this aspect. Proper appraisal from proper authority in this regard is solicited.*" However, the Project Proponent is going ahead with this project without any such "Proper Appraisal", which cannot be justified.

It is further submitted that while trying to justify the barrages, the Respondent is falsely relying upon his misrepresentation that the barrages have been vetted by CWPRS. Whereas the fact has been made abundantly clear by CWPRS itself in the letter Dt. 05/04/2021 (Page 1176). CWPRS has very categorically mentioned, "***CWPRS did not conduct any study for RFD of PMC, but suggested to take care of some issues in the matter.***" Thus, Respondent's claim that the barrages or

even any other component of the impugned project is vetted by CWPRS is totally false and misleading.

9. That in Para 16d, Page 1188/1189, the Respondent is trying to provide justification for not showing any “Built Area” in the Environmental Clearance. The only justification as given by Respondent is that the said Built Area is not “Habitable Area”. Whereas, the SEAC minutes (Annexure 15 Page 187) nowhere mentions “Habitable Area”. It is clearly mentioned as “*Proposed Built-up Area (FSI & Non-FSI)*”. Therefore, it is very clear that there is total misrepresentation in the SEIAA minutes and the Respondent is intentionally taking advantage of the same.

10. That in Para 16e, Page 1189 Respondent has candidly confessed that, “*the EC incorrectly stated the demolition of structures required for the impugned project is 00 square meters.*” Further it is mentioned that, “*the project proposes removal of low-level bridges, causeways, wires and check dams, infrastructure elements like manholes, pipelines etc.*” Thus, the basic fact that there is misrepresentation in the EC as alleged by the Appellants is thus confirmed.

This issue does not remain limited to this. It is submitted that if the low-level bridges and roads are to be demolished (which are carrying huge traffic loads every day), what traffic study is conducted by the project proponent is not on record and neither it was before the SEIAA. Further, there is no solution is given for the traffic before the project starts.

11. That in reply to para 16k, it is submitted that the balance of convenience and *prima facie* case is in favour of Appellant. Further,

considering the precautionary principle also the Hon'ble Tribunal may consider stopping the project to avoid any kind of irreversible damage.

12. That in reply 16l, it is submitted that public interest lies in not allowing the projects which are not environmentally sound and there is any likelihood of causing harm to environment and putting the life and property of the people in danger.

13. That in reply 16m, it is submitted that the project even if beneficial to public at large it cannot be permitted to start without proper impact assessment and on the basis of insufficient appraisal while granting the permission. It is submitted that if such projects are allowed in the form which it is proposed it will do more harm to the public and to environment and to the health of river than any benefit to public.

14. That in reply 16n, it is denied that balance of convenience lies in favour of Respondent No. 1. It is submitted that as stated above and considering the contents of the application the balance of convenience lies in favour of Appellant.

15. That in reply 16o, it is denied that precautionary principle does not apply to the case at hand. It is submitted that in the environmental matter if there is any doubt with respect to impact of the project balance of convenience lies in favour of environment.

16. That in reply 17 of the reply is denied and it is prayed that prayer made in the application may be allowed.

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



APPELLANT NO.1

THROUGH


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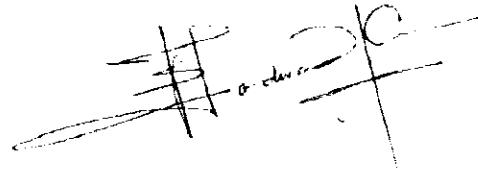
VERIFICATION

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 Appellant No.1 in the above titled Appeal and I am conversant with the facts and the circumstances of the case and competent to swear this affidavit.
2. 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: Pune/Delhi



APPELLANT NO.1

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

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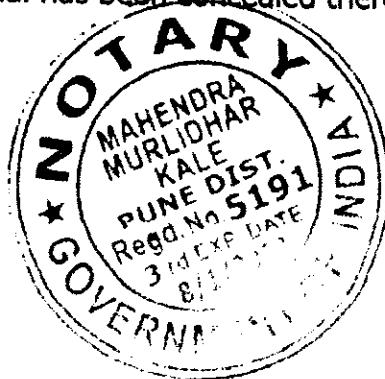
Pune Municipal Corporation & Ors.

...Respondents

AFFIDAVIT

I, Sarang Yadwadkar, aged about 63 years, S/o Vaman Krishna Yadwadkar, R/o A-9, Pradnyangad Apartments, S. No. 119/3 Sinhagad Road, Pune - 411030, presently at Pune, do hereby solemnly affirm and declare as under:

- That I am the Appellant No. 1 in the above titled Appeal and conversant with the facts and circumstances of the case and competent to swear this affidavit.
- That the contents of the accompanying Reply are true and correct and nothing material has been concealed therefrom.



DEPONENT

VERIFICATION

Verified on this 17th day of February, 2022 that the contents of the present Reply are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

BEFORE ME

MAHENDRA MURLIDHAR KALE
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
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Warje, Pune-411 058
MOBILE: 9822039387

DEPONENT

17 FEB 2022

NOTED & REGISTERED

AT SR. NO. 1

757712

TE :-