

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)  
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**Original Application No.50/2020(WZ)  
I.A. No.71/2020(WZ) & I.A. No.55/2023(WZ)**

**IN THE MATTER OF:**

**MR. TANAJI BALASAHEB GAMBHIRE**

R/o- CTS-296, Shukrawar Peth, Flat No.16,  
Laxmi Apartment, White House Lane,  
Near Shivaji Maratha High School,  
Pune- 411 002.

**.....Applicant**

*Versus*

- 1. THE CHIEF SECRETARY,**  
Government of Maharashtra,  
Annex Building, Mantralaya, Fort,  
Madham Kama Road, Mumbai-400 032.
- 2. THE PRINCIPAL SECRETARY, ENVIRONMENT DEPT.**  
Government of Maharashtra,  
Room No. 217, 2nd Floor, Annex Building,  
Mantralaya, Mumbai-400 032, Maharashtra
- 3. STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT  
AUTHORITY- MAHARASHTRA (SEIAA)**  
Through Member Secretary  
15th Floor, New Administrative Building,  
Mantralaya, Mumbai-400 032, Maharashtra
- 4. MAHARASHTRA POLLUTION CONTROL BOARD**  
Through Member Secretary,  
Kalptaru Point, 3rd Floor, Near Sion Circle,  
Opp. Cine Planet Cinema, Sion (E),  
Mumbai-400 022, Maharashtra
- 5. MAHARASHTRA POLLUTION CONTROL BOARD**  
Through Regional Officer  
Jog Centre, 3rd Floor, Mumbai-Pune Old Highway,  
Wakadewadi, Pune-411 003, Maharashtra
- 6. THE SECRETARY, URBAN DEVELOPMENT DEPT.**  
Government of Maharashtra,  
4<sup>th</sup> Floor, Annex Building,  
Mantralaya, Mumbai-400 032, Maharashtra
- 7. MUNICIPAL COMMISSIONER-PCMC**  
Pimpri-Chinchwad Municipal Corporation,

PCMC Building, Old Mumbai-Pune Highway,  
Pimpri, Pune-411 018.

- 8. CITY ENGINEER-PCMC**  
Pimpri-Chinchwad Municipal Corporation,  
PCMC Building, Old Mumbai-Pune Highway,  
Pimpri, Pune-411 018.
- 9. WATER RESOURCES DEPARTMENT**  
Through Chief Engineer (Irrigation Department),  
Sinchan Bhavan, Barne Road, Mangalwar Peth,  
Pune Irrigation Circle, Pune-411 011.
- 10. COLLECTOR OF PUNE**  
As Collector and President of District Environment  
Protection Committee-Pune,  
Collector office, Bund Garden, Pune-411 001.
- 11. M/s. RIVER RESIDENCY DEVELOPERS**  
Joint Ventures through  
10A. M/s. Ishwar Construction Pvt. Ltd.,  
10B. Trade Centre Developers & Builders Pvt. Ltd.  
10C. M/s. Vijay-Laxmi Developers,  
10D. Vishal Associates,  
Having their Office Address at: Ishwar Parmar Group,  
Parmar Trade Center, C-Wing, Sadhu Vaswani chowk,  
Pune- 411001,  
Having Project Address at: Gut No. 90(P),  
Village-Chikhali, Tal-Haveli, District-Pune.
- 12. M/s. JARE GROUP (JARE WORLD)**  
**Having Office Address:** Manisha Society, Behind Sai Mandir,  
More Vasti, Village: Chikhali, Taluka: Haveli, District: Pune,  
Maharashtra-411062  
**Having Site Office:** Survey No. 90, Behind River Residency,  
Village: Chikhali, Taluka: Haveli, District: Pune,  
Maharashtra-411 062.
- 13. M/s. V SQUARE**  
Having Site Office: Survey No. 90,  
Behind River Residency, Village: Chikhali,  
Taluka: Haveli, District: Pune,  
Maharashtra-411 062.
- 14. MR. RAHUL TUKARAM SASTE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 15. MR. DILIP MOTILAL CHORADIYA**  
R/o: 12/13, Sajjan Plaza, In front of Hindustan Bakery,  
Chaphekar Chowk, Village: Chinchawad,  
Pune-411 033.  
Also R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali,  
Taluka: Haveli, District: Pune, MH-411 062.

- 16. MR. AJAY KUSHWA**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 17. MRS. DIPTI GAUTAM DHALI**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 18. MR. SANJAY RAMMILLAN VISHWAKARMA**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 19. MRS. POONAM SHARAD DAREKAR**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 20. SMT. URMILA MADHUKAR JADHAV**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 21. MR. GANESH JAYWANT KHULE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 22. MRS. MAINNA VITTHAL WAGH**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 23. MR. SHAHID MEHMOOD SHEIKH**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 24. MR. JAYAPRASAD YADAV**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 25. MR. PRADEEP DAVID MALGE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 26. MR. GANESH MURLIDHAR NEMADE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 27. MR. NARE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**28. MR. SWAPNIL SADASHIV PATIL**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**29. MR. VISHWANATH VITTHAL SHELAR**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**30. MS. MAHADEVI NAGNATH KALOJI  
MR. GANESH RAGHUNATH GHODAGE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**31. MR. SUMAN BABAJI BHAIK**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**32. MRS. HIRAKANI PANDURANG LOKHANDE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**33. MRS. SWATI VIJAY GORE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**34. MR. BAJRANG GOPAL NEHRE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**35. MR. SUNIL RAMESH GAWDE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**36. MR. MOHMAD ASIF SHAIKH**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**37. MR. GANESH MURLIDHAR NEMADE**

R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

**38. MRS. SUNITA SUDHAKAR KADAM**

R/o: "River Villa", Besides River Residency,

Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

- 39. MR. ANURUDDHA SACHIN BIRAJDAR**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 40. MR. MOJAM ALI KITABULLAH CHAUDHARY**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 41. MR. RAJEEV KUMAR GAUTAM**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 42. MR. SHASHIKANT YURAJ CHAUDHARY**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 43. MR. MAHESH SANGRAM PATIL**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 44. MRS. MINAL SHAILESH VISPUTE  
MR. SHAILESH MAHENDRA VISPUTE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 45. MR. SHARAD VASANT BHONDE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 46. MR. VIJAY BHAGWANDAS YADAV**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 47. LMR. JAKIR MASHAK KARJAGI**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.
- 48. MRS. KANCHAN PRABHAKAR POTE  
MR. AAKASH PRABHAKAR POTE**  
R/o: "River Villa", Besides River Residency,  
Gut No. 90, Village: Chikhali, Taluka: Haveli,  
District: Pune, MH-411 062.

.....Respondent(s)

**Counsel for Applicant:**

Applicant in-person along-with  
Mr. Vijay Mhaske, Advocate

**Counsel for Respondent(s):**

Mr. Aniruddha Kulkarni, Advocate for R-2/Envvt. Deptt. & R-3/SEIAA  
Ms. Manasi Joshi, Advocate for R-4 & 5/MPCB  
Mr. Shivshankar Swaminathan, Advocate for R-7 & 8/PCMC  
Ms. Supriya Dangare, Advocate for R-9/WRD  
Mr. Saket Mone, Advocate along-with  
Mr. Abhishek Salian, Advocate for R-11/PP  
Mr. Rohit Jain, Advocate for R-12 &13/Project Proponent  
Ms. Bhavna Duhoon, Advocate for R-15  
Ms. Ranu Puroshit, Advocate for R-16 to 44 & 46 to 48

**PRESENT:**

**Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)**

**Hon'ble Dr. Vijay Kulkarni (Expert Member)**

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**Reserved on : 15.05.2024**

**Pronounced on : 01.07.2024**

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**JUDGMENT**

1. This Original Application has been filed under Section 14, 15 & 20 of the National Green Tribunal Act, 2010 with the prayers that respondents (appears to be a reference to the respondent No.1- The Chief Secretary, Government of Maharashtra; respondent No.2- The Principal Secretary, Environment Dept., Government of Maharashtra; respondent No.3- State Level Environment Impact Assessment Authority- Maharashtra (SEIAA) through Member Secretary; respondent Nos.4 & 5- Maharashtra Pollution Control Board; respondent No.6- The Secretary, Urban Development Dept., Government of Maharashtra; respondent No.7- Municipal Commissioner- Pimpri-Chinchwad Municipal Corporation; respondent No.8- City Engineer-Pimpri-Chinchwad Municipal Corporation; respondent No.9- Water Resources Department through Chief Engineer (Irrigation Department); and respondent No.10- Collector of Pune) be directed to demolish the illegal structures constructed in the prohibited

area of blue flood line of Indrayani River and to restore the area to its original position along-with the consequential reliefs.

2. In brief, the facts of this case are that the project under challenge "*River Villa*" is a residential bungalow plots construction project, undertaken by the respondent No.12-M/s. Jare World and respondent No.13-M/s. V. Square i.e. Project Proponents (PP's), situated at Survey No.90(P), Near River Residency, Village-Chikhali, Taluka-Haveli, District-Pune, which are raising construction in the prohibited area of blue flood line of Holy Indrayani River without any permission from the concerned authorities. These Project Proponents gave rise to substantial question relating to implementation of the environment protection and improvement enactments listed in schedule-I of the National Green Tribunal Act, 2010.

3. It is further mentioned in this application that the river Indrayani is passing through the town Alandi, which is a place of worship and spirited by the presence of entrancement of "Sant and Great Philosopher Dnyaneshwara". From the project in question, huge pollution is happening in the water of that river. The project in question is a part and parcel of the Indrayani River and are reserved as Green Zone where bungalow construction is prohibited under DC Rules of PCMC. The PCMC incorporated the marking of flood line on their Development Plan on 18.08.2009 vide EP-87 and that the project in question is shown as affected by prohibited blue flood line.

4. It is further mentioned in this application that the respondent No.12-M/s. Jare World and respondent No.13-M/s. V Square i.e. Project Proponents, in connivance with the respondents No.11-M/s. River Residency (JV), dumped construction waste and reclaimed the area of project land. The PP's have completed the construction of one bungalow,

compound wall and bungalow plots boundary walls in prohibited area of blue flood line. The Respondents No.12-M/s. Jare World and Respondent No.13-M/s. V. Square i.e. Project Proponents are extracting ground water from two bore wells without permission from the concerned authority. These Project Proponents are dumping construction waste in Indrayani River; have blocked the natural flow of the said river; have diverted the natural flow of Indrayani River; are discharging construction waste water into the natural flow of Indrayani River; have damaged the top soil of project land and there is no preservation of top fertile soil; have caused air pollution due to illegal operation of one DG Set; have constructed the internal roads with asphalt causing soil pollution; have consumed huge quantity of natural resources as by way of processed fine building material; have made tree cutting; have completed construction of one bungalow and proposed 99 bungalows in total; have proposed this project on 5.5 Acre (i.e. 5.5 x 4000 Sq. Mtrs = 22000 Sq. Mtrs.); have not obtained any non-agricultural permission for Land use change from Collector of Pune; have made illegal Land use change from Green Zone to Residential Zone; have not obtained any permission form Water Resource Department (Irrigation Department); have not obtained any permission form Maharashtra Real Estate Regulatory Authority-MAHA RERA; have not obtained any permission from the MoEF&CC, Environment Department, SEIAA, SEAC and MPCB; have violated the principle of sustainable development; have violated the provisions of Environment enactments and PCMC officers are also equally responsible; have violated the provisions of Environment Act-1986, Water (P & CP) Act-1974 and Air (P & CP) Act-1981; are cheating public at large; have caused huge financial loss to the exchequer by duping various charges to be paid for construction; and have caused substantial damage to environment and ecology of more than Rs.100 Crores, which needs to be recovered from the Project Proponents. A



copy of the Layout Plan dated 15.05.2018 is annexed as Annexure-A-10 at page no.206 of the paper book.

5. It is further mentioned in this application that respondent No.11-M/s. River Residency-Project Proponent dumped the construction waste material in the Indrayani River even after the complaint dated 05.07.2017 made by the complainant and the PCMC neglected to act on the said complaint and supported the project proponents to dump the construction waste in river and to carry on the illegal construction in the prohibited area of blue flood line. Because of this, the environmentally and ecologically sensitive area of Indrayani River admeasuring more than 86824.80 Sq. Mtrs. is damaged by dumping of construction waste of 3 Meters height and the quantity of the said construction waste is more than 2,00,000 Sq. Mtrs. Respondent No.12-M/s. Jare World and Respondent No.13-M/s. V. Square i.e. Project Proponents have not obtained any measurement plan from the Superintendent of Land Record nor have they obtained any sanction from the PCMC nor have they obtained any NOC from the Irrigation Department.

6. It is further mentioned in this application that the Government of Maharashtra modified the Notification dated 02/09/1989 and 21/09/1989 with respect to demarcating flood lines and use of Prohibitive and Restrictive Zones to be not allowed for any construction inside flood line to avoid possible risk of floods. The said modification has been narrated in para no.10 (D) (iii), which is as follows:-

“

1. *Gov. Irrigation Department circular No. FDW-1089/243/89/Sin Vya (Works) Dt. 2/9/1989 and Dt. 21/9/1989 is being modified.*
2. *With respect to the land use in flood prone zones, as per the guidelines given in the Dam Safety Manual Chapter 8/1984 important flood lines will be primarily of two types. Prohibitive Flood Line (Blue Line) and Restrictive Flood Line (Red Line).*

3. *Blue Flood Line: Blue Flood Line will be the line marked at the water level of the highest discharge of:*
  - a) *Flood discharge at the average frequency of 25 years.*
  - b) *One and half times the discharge of the established riverbed.*
4. *Red Flood Line: Red Flood Line will be the line marked at the water level of the water discharge as under:*
  - a) *Where there is no dam, flood discharge at the average frequency of 100 years.*
  - b) *Where there is a dam, maximum flood discharge over the spill way added with flood discharge from the free catchment area at the average frequency of 100 years.*
5. *Prohibitive Zone: The area between the Blue Flood line on the right bank of the river to riverbed to the Blue Flood line on the left bank of the river shall be called as Prohibitive Zone.*
6. *Restrictive Zone: The area between the Blue Flood Line of the river and the Red Flood Line on tile same bank shall be called as Restrictive Zone.*
7. *Prohibitive Zone can be used only in the form of open land e.g. gardens, play grounds, light crops; where there is established easement right to take crops (e.g. water melons, musk melons etc. public toilets and sewage discharge facilities), so that there will not be any obstruction to the flow of the river, there will not be reduction in the carrying capacity of the river and there will not be any change in the cross section of the river.”*

7. It is further mentioned in this application that the flood line marking plans prepared for Village-Bopodi would clearly show that the project land is falling in restricted zone and no construction is permitted at all. It is further mentioned that respondent No.11- M/s. River Residency started its construction near about year 2012 and started dumping of construction waste and excavated waste material on the green belt of remaining land in the same survey number, on which the present bungalow project was under construction. The photographs from Photo No.05/28 to 12/28 dated 15.04.2017 would clearly show the ongoing dumping of construction waste on the Green Belt and STP reservation plot is done by M/s. River Residency (JV), on which Respondent No.12-M/s. Jare World and Respondent No.13-M/s. V. Square i.e. Project Proponents have undertaken bungalow plotting and its construction. The photographs from Photo No.25/28 to 26/28 dated 15.04.2017 would also clearly show illegal

installation of RMC plant causing air pollution in the area and Photo No.27/28 to 28/28 dated 15.04.2017 would clearly show air particles spread over the area causing air pollution. Copies of the Photographs dated 15.04.2017 of the project sites captured by the applicant with "Canon Power shot A470" are attached as Annexure-A-7 at page nos.93 to 106 of the paper book. The photographs dated 09.06.2017 would also show the ongoing dumping of the construction waste on the Green Belt and STP reservation plot is done by M/s. River Residency (JV), on which Respondent No.12-M/s. Jare World and Respondent No.13-M/s. V. Square i.e. Project Proponents have undertaken bungalow plotting. The photographs from vide Photo No.21/62 to 31/62 dated 09.06.2017 would also clearly show the illegal construction of Ghat or so called nature park into the Indrayani Riverbed, creating pollution and obstacle to the water flow by M/s. River Residency (JV). The photographs from Photo Nos.32/62 to 38/62 dated 09.06.2017 would clearly show illegal dumping of the hazardous waste like Gypsum, POP, Cement & Concrete generated from the construction of M/s. River Residency (JV), specifically Photo No.36/62 showing tractor carrying construction waste for dumping into riverbed etc.

8. It is further mentioned in this application that the photographs dated 17.12.2019 would show the ongoing illegal construction of one Bungalow, ongoing illegal construction of compound wall, bungalow plot boundaries etc. and Photo Nos.07/08 & 08/08 would show hoardings, advertisement, display at the project site. Google Earth Image from 2014 to 2020 would show the dumping of construction waste into the riverbed as well as in the blue flood line of Indrayani River and affecting green belt STP Reservation, a copy of which is annexed as Annexure A-13 at page nos.223 to 234 of the paper book and the Google Earth Images from 2004 to 2017 clearly showing the tree cutting, dumping of construction waste, illegal

construction of Ghat or So called Nature Park and PCMC STP Plant into the prohibited blue flood line of the Holly Indrayani River are annexed as Annexure A-14 at page nos.235 to 264 of the paper book.

9. It is further mentioned in this application that in the backdrop of frequent floods during heavy rains, the State of Maharashtra decided to prohibit the development in the vicinity of rivers to protect the environment and inhabitants and issued a Notification dated 21.09.1989 defining the areas of blue flood line imposing restrictions on any constructions between the blue and red flood lines of the river bed. The guidelines were issued regulating the constructions activity and directed every concern Department to implement the same in the State of Maharashtra. Therefore, any construction between blue flood line and river bed is made illegal since 21.09.1989. A copy of the Government Circular dated 21.09.1989 is annexed as Annexure-A-1 at page nos.41 to 43 of the paper book.

10. It is further mentioned in this application that the Irrigation Department submitted their flood line marking plans for Indrayani River to PCMC- respondent No.7 near about January 2009, wherein it ~~is~~ has clearly shown the Survey No.90, which is affected by the blue flood line. The PCMC incorporated the marking of flood line on their Development Plan under Section 31 of M.R. & T.P. Act 1966 on 18.08.2009, which shows the Survey No.90 of Village: Chikhali to be affected by Green Belt reservation and blue flood line of Indrayani River. The said project site is affected by a green belt area admeasuring 42934.69 sq. Mtrs., Nature Park Construction of 4000 Sq. Mtrs. and STP reservation no.130 having an area admeasuring 42747.07 sq. Mtrs. In fact, both these areas are part of the river flow and are affected by the blue line marking of Indrayani River, a copy of which is annexed at Annexure A-4 at page no.46 of the paper book.

11. It is further mentioned in this application that the present project site is affected by stone quarry having an area admeasuring 8840 sq. Mtrs., which information has been suppressed by the Project Proponent and that the said non-development area is not deducted from the plot area of the project. A copy of the demarcation plan obtained by M/s. River Residency dated 29.09.2014 is annexed as Annexure-A-6 at page no.92 of the paper book.

12. This matter was first considered by the Tribunal on 09.07.2021, on that date, the Joint Committee was constituted. In the said order, it was also recorded that Learned counsel for the applicant points out that this Tribunal vide order dated 30.06.2021 in O.A. No. 56/2020 (WZ), Tanaji Balasaheb Gambhire v. Chief Secretary, Govt. of Maharashtra & Ors., where overlapping issues are involved, has constituted a five-Members Joint Committee comprising CPCB, SEIAA, Maharashtra, State PCB, Irrigation Department, Maharashtra and District Magistrate Pune. Therefore, it was directed that the said Joint Committee shall visit the site of the present project and give the status of compliances in its report and it was also directed that the Committee may interact with the stake holders and except for visit to the site conduct proceedings online. The Committee would be at liberty to take assistance from any other individual/institutions.

13. In compliance to the same, the Joint Committee has submitted its report dated 20.12.2021, relevant part of which is quoted herein below for the sake of convenience:-

## 2.0 Approach

In order to comply with the aforesaid Hon'ble NGT Order, the Central Pollution Control Board (CPCB) held a virtual meeting on 02/08/2021 and decided to seek relevant information from various organizations viz. Maharashtra Pollution Control Board, State Environment Impact Assessment Authority (Maharashtra), Pimpri-Chinchwad Municipal Corporation, Irrigation Department, Govt. of Maharashtra, Integrated Regional Office of Ministry of Environment, Forest & Climate Change-Nagpur and Central Ground Water Authority. These organisations were requested to send the relevant information. Further, another follow-up virtual meeting was convened on 02/09/2021 to discuss the way forward and progress of submission of relevant information from various organizations. Subsequently, follow-ups were made during August, 2021 to November, 2021 for seeking relevant information. Upon receipt of desired information and nominee officials, the joint committee carried-out inspection of the said residential project i.e. "River Villa" project at Survey No. 90(P), Near River Residency, Village-Chikhali, Taluka-Haveli, District-Pune on 08/12/2021. The following committee members were present during the inspection:

- i. Shri Nishchal C., Scientist 'D', CPCB, Regional Directorate, Pune
- ii. Shri Pankaj Joshi, Member, SEIAA, Maharashtra
- iii. Shri Kiran Hasabnis, Sub Regional Officer, MPCB, Pune
- iv. Shri Ashok Late, Deputy Engineer, Irrigation Department, Govt. of Maharashtra, Pune
- v. Shri Unmesh Muley, Clerk as Representative of District Magistrate, Govt. of Maharashtra, Pune

Also, Shri Suryakant Mohite, Deputy Engineer, Pimpri-Chinchwad Municipal Corporation, Pune and Smt Jyoti Sutar, Field Officer, Sub Regional Office-Pimpri Chinchwad, MPCB, Pune were present and accompanied the joint committee during the inspection.

## 3.0 Observations and findings

Based on the preliminary information received from various organisations, and followed by site inspection to assess the various violations mentioned in the aforesaid Hon'ble NGT Order, the observations & findings of the joint committee are given as below:

- i. Irrigation Department, GoM, has informed that they have carried-out survey with the help of HECRAS software and plotted blue & red flood lines on Indrayani River in the stretch of Dehu road to Charoli Bhandara. The aforesaid plotted map of Indrayani River has been submitted to the Commissioner PCMC vide letter no. 6317, dated 23/07/2008. It was also informed that in order to avoid possible danger of flood, the Govt. of Maharashtra has issued circular No. FWD-1089/243/89/Sin Vya (Works), dated 21/09/1989 regarding demarcation of flood lines to prohibit any type of construction inside the flood lines (blue line). Also, directed to follow the guidelines mentioned in the aforesaid circular w.r.t. prohibitive and restrictive zone before commencement of any construction activity. Copy of the aforesaid circular vide dated 23/07/2008 is given at **Annexure-II**.
  
- ii. As per the development plan for extended area of Pimpri-Chinchwad Municipal Corporation (excluded part) published under section 31 of The Maharashtra Regional and Town Planning Act, 1966 vide notice no. TPS-1808/894/CR-09/UD-13, dated 18/08/2009, read with corrigendum & addendum dated 27/10/2009, the said gat no.90 is shown as affected by prohibited blue flood line of the Indrayani River. Copy of the aforesaid Development Plan for extended area of PCMC is given at **Annexure-III**. Wherein the project proponent i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune is developing "river villa" project falling under the said affected gat no. 90. It was observed during the joint committee visit on 08/12/2021 that the project proponent i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune has constructed boundary wall for each bungalow plot and completed the compound wall for the entire project site. Also, construction of about 04 nos. of bungalows was in progress while construction of 01 no. of bungalow was found completed.
  
- iii. It is observed from the action taken report submitted by the Joint City Engineer, Building Permission and Unauthorized Construction Control Department, PCMC, Pune to MPCB that;
  - a) The project proponent i.e. i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune has carried-out unauthorized plotting on the premises at

survey no.89 and 90 at Vill. Chikhali, Tashil. Haveli, Dist. Pune, which is partially affected by green belt, 18 meter widening of road and some part by reservation no. 1/130 of the sewage treatment plant as per the approved development plan of PCMC.

- b) The project proponent has not sought any prior permission from PCMC w.r.t. the plotting.
- c) The Building Permission and Unauthorized Construction Control Department, PCMC, Pune vide letter no. BP/Kavi/Chikhali/02/58(a)/201, dated 20/05/2019 had issued notice to the land owner i.e. Shri Dilip Chordia.
- d) The Building Permission and Unauthorized Construction Control Department, PCMC has registered criminal offence against the project proponent vide no. 0053, dated 22/01/2020 under Section 397 of The MMC Act in Bhosari MIDC Police Station.
- e) The Building Permission and Unauthorized Construction Control Department, PCMC, Pune vide letter no. B.P./kavi/Chikhali/83/2020, dated 11/03/2020 communicated a letter to Inspector in General of Registration and Controller of Stamps of Maharashtra State, Pune, not to permit the sale and purchase of the said plotting and register any documents therefore.
- f) However, the Hon'ble Deputy Director of Town Planning vide dated 07/09/2020 informed to the unauthorized plotting holder i.e. Shri Dilip Chordia to pay 50% of the premium amount of Rs. 6,81,000/- assessed in respect of land area indicated in the No Development Zone (green zone), outside the blue flood line in terms of development plan for extended jurisdiction of PCMC to be modified into residential zone, with the payment to Town Planning Department of PCMC. Construction in this area can be allowed after change of green zone to residential zone as per Rules and Regulations.



- g) PCMC has issued 07 notices to most of the unauthorized construction in the aforesaid plotting and also 04 offences are registered on the said unauthorized construction holders. Similarly, PCMC department has issued notices to the unauthorized constructions which are presently in progress. Further, it has been informed by PCMC vide letter no. BP/WD02/18/2021, dated 30/08/2021 that unauthorised construction could not be removed as there was interim stay on the removal of unauthorised construction during the covid pandemic period as per the orders passed from time to time by the Hon'ble High Court of Mumbai in Suto Motu PIL no. 01 of 2021 till 30/09/2021.
- h) Copy of the aforesaid detailed action taken report vide dated 30/08/2021 as submitted by the Joint City Engineer, Building Permission and Unauthorized Construction Control Department, PCMC, Pune to MPCB is given at Annexure-IV.

- iv. The State Govt. of Maharashtra, Water Resource Department, Govt. Circular No. PuRaNi-2018/(182/2018) Sin. Vya. (Revenue), dated 03/05/2018, read with Govt. Circular No. FWD-1089/243/89/Sin Vya (Works), dated 21/09/1989 issued a circular regarding demarcation of flood lines to prohibit any type of construction inside the flood lines. Copy of the aforesaid circular vide dated 03/05/2018 is given at Annexure-V. Also, translated version of the aforesaid circular vide dated 03/05/2018 from Marathi to English, as submitted by the Applicant in his petition is given at Annexure-V A. The relevant paragraph of the aforesaid circular vide dated 03/05/2018 is reproduced as follows:

*"...5. Prohibitive Zone: The area between the Blue Flood line on the right bank of the river to riverbed to the Blue Flood line on the left bank of the river shall be called as Prohibitive Zone..."*

*"...6. Restrictive Zone: The area between the Blue Flood Line of the river and the Red Flood Line on the same bank shall be called as Restrictive Zone..."*

*"...7. Prohibitive Zone can be used only in the form of open land e.g. gardens, play grounds, light crops; where there is established easement right to take crops (e.g. water melons, musk melons etc. public toilets and sewage discharge facilities), so that there will not be any obstruction to the flow of the river, there will not be reduction in the carrying capacity of the river and there will not be any change in the cross section of the river..."*

*"...8. Restrictive Zone should be used only for the following:*

- i) Sewage carrying projects unavoidable in public interest.*
- ii) Public roads unavoidable in public interest; provided the top level of such road shall be above the level of Blue Flood line.*
- iii) Water supply pipe lines, gas pipe lines, drainage pipe lines unavoidable in public interest provided such pipe lines shall be under ground and will not cause obstruction in the cross section of the Restrictive Zone.*
- iv) The plinth level of the ground floor of the buildings in Restrictive Zone shall be safely above the level of Red Flood line so that the people could be evacuated to safe location before the flood level rises in the Restrictive Zone and it will be possible for the people and cattle to shift urgently to safe location with their belongings to avoid the loss of life and property due to floods..."*

### **3.1 Action taken by the Hon'ble NGT in various matters related to construction raised in the prohibited zone**

- i. Hon'ble NGT in OA no. 281 of 2019(PB) in the matter of Mahadevapura Parisara Samrakshane Mattu Abhivrudhi Samiti vs Union of India & Ors. passed an order vide dated 30/07/2021 regarding the violation of provisions relating to wetlands and Rajakaluves, and constructions raised in the buffer zone or surrounding area of Kaikondarahalli Lake. Relevant extract of the paragraphs of the aforesaid order vide dated 30/07/2021 are reproduced below;

*“...155. Hence, in view of order already passed on 09.05.2019 based on the report submitted by First Joint Committee, we allow Original Application, i.e., OA No. 281/2019. Order for taking necessary action against PP, Ramesh Kumar as well as demolition of constructions illegally raised on the disputed site, are maintained and reiterated. The respondents competent authorities shall proceed in accordance with law to enforce environmental laws by initiating prosecution, demolishing the structures, illegally raised, if not, already demolished, restore land to its original position, make assessment of cost of restoration and damage to environment, assess environmental compensation against PP-Ramesh Kumar and realize the same in accordance with law, if not already done, expeditiously and in any case within 3 months from the date of this judgment...”*

*“...321. We impose compensation for damage to environment as 10% of the cost of project. The cost of project mentioned in the application submitted for grant of EC was 310 crores, hence PP is directed to pay 31.00 crores. This amount shall be used for demolition of the constructions as per direction (ii), restoration of the area to the original position, rejuvenation and reforestation etc. of the “Kaikondarahalli Lake” and its surrounding area. PP shall deposit the amount within one month with the State Wetland Authority...”*

- ii. Hon'ble NGT in OA no. 41 of 2019 (WZ) in the matter of Federation of River Residency Cooperative vs Pimpri Chinchwad Municipal Corporation & Ors. passed an order vide dated 30/01/2020 regarding construction of Sewage Treatment Plant (STP) by the Pimpri-Chinchwad Municipal Corporation (PCMC) in the area between the river bank and Blue Flood Line of the Indrayani River, which is a prohibited zone. Relevant extract of the paragraphs of the aforesaid order vide dated 30/01/2020 are reproduced below;

*“...9. Having regard to the facts and circumstances set out above, we have no hesitation in holding that the questioned STP has been constructed within the prohibitive zone and, apart from the fact that the*

*PCMC did not have the necessary Consent to Establish, the structure (STP in the present case) besides having been raised at a location which is not suitable for construction of STP, is also obstructing the natural flow of the river during the rainy season..."*

*"...10. As a consequence, we direct the PCMC to immediately demolish the STP in question and take steps to construct one at some other suitable site in accordance with law. The entire exercise shall be carried out within a period of one month under the strict supervision of the MPCB and the Irrigation Department, Government of Maharashtra..."*

*"...11. Since, during the construction of the STP severe damage was caused to the environment and ecology of the area, we direct the MPCB to assess the ecological damage by taking scientific support of experts and recover the same from the PCMC..."*

Some of the photographs taken during the joint committee inspection are given at Annexure-VI.

#### **4.0 Conclusions**

Construction by project proponent i.e. i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune is being carried out in Gat No. 90, Near River Residency, Village-Chikhali, Taluka-Haveli, District-Pune. As per the flood plan submitted by Irrigation Department, Govt. of Maharashtra to the Commissioner, PCMC dated 23/07/2008 the said Gat No. 90 falls between the river bank and blue flood line of Indrayani River, which is a prohibited zone. Also, as per Circular of Govt. of Maharashtra, Water Resources Department and "Guidelines for restriction on Construction in flood prone area and demarcation of flood line to avoid damages due to flood, permissible land use in prohibitive zone and restrictive zone" vide dated 03/05/2018, the area under reference falls under blue flood line of Indrayani River. Hence, the filling and construction done in the blue flood line of Indrayani River should be immediately removed.

As per the action taken report submitted by the Joint City Engineer, Building Permission and Unauthorized Construction Control Department, PCMC, Pune that the said area falls between the river bank and blue flood line of the Indrayani River, which is a prohibited zone. Hence the unauthorised construction, filling carried out as on today is illegal. PCMC has issued several notices to the project proponent and plot holders and also communicated to the Inspector in General of Registration and Controller of Stamps of Maharashtra State, Pune, not to permit the sale and purchase of the said plotting and register any documents therefore. Subsequently, an FIR is also lodged against the project proponent. vide no. 0053, dated 22/01/2020 under Section 397 of The MMC Act in Bhosari MIDC Police Station

#### 5.0 Recommendations

Considering the above referred circulars issued by Irrigation Department, Govt. of Maharashtra, action taken report submitted by PCMC and Orders passed by Hon'ble Hon'ble NGT in similar matters i.e. prohibiting the constructions made between the river bank and blue flood line of the Indrayani River and also the construction raised in the buffer zone of water bodies, the joint committee recommends the following for kind consideration of the Hon'ble Tribunal:

- i. Demolish<sup>1</sup> the constructions illegally raised by the project proponent i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune in Gat No. 90, Near River Residency, Village-Chikhali, Taluka-Haveli, District-Pune in the area, affected by prohibited blue flood line of the Indrayani River
- ii. The project proponent i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune may deposit Rs 05 Crores<sup>2</sup> with PCMC as damages for contravening provisions w.r.t. constructing project in Gat No. 90, Near River Residency, Village-Chikhali, Taluka-Haveli, District-Pune in the area, affected by prohibited blue flood line of the Indrayani River which is prohibited area as per Govt. of Maharashtra circular No. FWD-1089/243/89/Sin Vya (Works), dated

<sup>1</sup> Hon'ble NGT In OA no. 281 of 2019 (PB) In the matter of Mahadevapura Parisara Samrakshane Mattu Abhivrudhi Samiti vs Union of India & Ors. vide order dated 30/07/2021

<sup>2</sup> Hon'ble Supreme Court in Civil Appeal No. 10854 of 2016 In the matter of M/s Goel Ganga Developers India Pvt. Ltd., vs Union of India & Ors. vide order dated 10/8/2018

**21/09/1989. PCMC may utilise the said amount for cleaning & rejuvenation of gat no.90, affected by prohibited blue flood line of the Indrayani River.**

- iii. **In addition to the above, as at s. no. ii, PCMC may assess environmental & ecological damage and required remedial measures through reputed institute such as NEERI, IIT Bombay, etc. The damage and remedial measures cost may be recovered from the project proponent i.e. i.e. i.e. M/s Jare Group (Jare World) and M/s V. Square, Pune and be implemented by PCMC.**

**The above exercise may be carried out under the supervision of the District Collector, Pune, MPCB and Irrigation Department, Govt. of Maharashtra.**



14. Thereafter, vide order dated 02.03.2023, we had directed the applicant to implead 29 persons as respondents in the present Original Application because learned counsel for respondent No.7- PCMC had informed us that respondent Nos.12 & 13 had done plotting in the name of these 29 persons along-with Mr. Dilip Motilal Chordia and Mr. Rahul Tukaram Saste. Looking to the fact that a prayer was made for demolition of the said constructions, they were necessary parties in the present Original Application, who were also involved in the plotting work.

15. Thereafter, vide order dated 20.04.2023, it was clear that the applicant, who appeared in-person, had filed amended memo of parties of the present Original Application because of the addition of respondent Nos.14 to 42. Thereafter, we passed order dated 19.07.2023 regarding impleadment of six more respondents because it was informed by the respondent Nos.7 & 8- PCMC that these six respondents had illegally raised construction at the place in question.

16. From the side of respondents Nos.4 & 5- MPCB, reply affidavit dated 17.10.2022 has been filed, wherein it is submitted that Officials of the Respondent Board carried out the visit at the project site in question on 12/10/2022 to check the present status and observed that construction activity was going on; respondent Nos.11 to 13-PPs had completed construction of 16 nos. of bungalows; and out of those bungalows, few of them had been occupied by residents and in some of them, plastering, flooring, painting work etc. **was** found in progress.

17. Applicant has filed rejoinder affidavit dated 02.02.2023 against the reply affidavit of respondent No.4- MPCB as well as objection against the Joint Committee Report, wherein it is submitted that the Tribunal vide its Order dated 30.01.2020 passed in O.A. No.41/2019(WZ) directed the

demolition of the STP, which was undertaken by the PCMC, situated in the same survey number in prohibited zone of blue flood line of Indrayani River.

18. It is further mentioned in this rejoinder affidavit by the applicant that the Joint Committee is not fair with respect to the penalty and Environmental Compensation. As per the *Goel Ganga* Judgment, Rs.5 Crores were imposed as penalty for contravening the provisions of Law and apart from the said amount, Hon'ble Supreme Court imposed Environmental Compensation of Rs.100 Crores. Therefore, in present case also, PP is liable to pay Environmental Compensation separately under **Polluter Pays principle** as well as under Section 15 (1) (b) & (c) independently for restitution and restoration of the area under Environmental & ecological degradation. The Joint Committee has recommended the Compensation on the basis of Order passed in O.A. No.281/2019(PB) and *Goel Ganga's* Case to the tune of 10% **of the project cost**, however, failed to recommend the correct initial compensation amount. The Joint Committee further recommended to deposit an amount of Rs.5 Crores with the PCMC and also, other amounts were to be calculated with the help of NEERI & IIT Bombay.

19. It is further mentioned in this rejoinder affidavit by the applicant that the Joint Committee failed to provide the total project cost for 99 bungalows having total BUA of more than 99,000 M<sup>2</sup> based on the Ready Reckoner rates of IGR available on the website. As per the Ready Reckoner rates of IGR, the total project cost must be more than Rs.500 Crores, as these bungalow plots are utilized for the construction of buildings having flat schemes on ownership basis with each building cost **being** more than Rs.5 Crores. Therefore, initial compensation amount shall be more than Rs.50 Crores, to be imposed on the Project Proponent.

20. It is further mentioned in this rejoinder affidavit by the applicant that the Joint Committee failed to provide correct information with respect to conversion of land from green zone to residential zone falling outside the blue flood line. However, there was no land outside the blue flood line available with the PP for such conversion nor was there any provision to convert the prohibited zone into the residential zone. The entire plot is in blue flood line of Indrayani River. The PCMC has not issued any building sanction till date as has been stated in the Joint Committee Report. However, the Respondent Nos.12 & 13- PPs have undertaken the development of 99 Bungalows at the project site as per their own advertisement and each bungalow is having covered construction Built-up Area of more than 1000 Sq. Mtrs., which can be seen from the construction carried out at the project site for 16 bungalows. Therefore, considering the total construction proposed at the site in question ~~is~~ having total built-up area than 99000 M<sup>2</sup> i.e. more than 20000 M<sup>2</sup>, mandated prior Environmental Clearance to be obtained under EIA Notification, 2006 as well as consents under Water (P&CP) Act, 1974 and Air (P&CP) Act, 1981 with Solid Waste Handling Rules. It is further submitted that the State Government has already prohibited any construction in the blue flood line vide Notification dated 21.09.1987.

21. From the side of respondent No.11-M/s. River Residency Developers, reply affidavit dated 07.02.2023 has been filed, wherein it is submitted that no allegations are made against the respondent No.11, hence no relief is prayed against it. All the allegations are raised mainly against the respondent Nos.12 & 13. The answering respondent has not carried out any illegal construction in the blue flood line nor has it dumped any debris of construction material on the river bed of Indrayani River.

22. From the side of respondent Nos.7 & 8- PCMC, reply affidavit dated 10.02.2023 has been filed, wherein it has denied that the respondent No.11- River Residency has dumped construction waste material even after the letter dated 17.05.2017. The Answering Respondent states that the present project in question is situated in Survey No.90 (Part), Village Chikhali on the North side of 18 Meter D.P. road, in which the said development is being carried out by the Respondent No.12- M/s Jare World and Respondent No.13- M/s V Square. Majority of the project in question is located at Survey No.90 (Part), which falls within the prohibited blue line of River Indrayani, for which no permission has been obtained by the Project Proponents.

23. It is further mentioned in this affidavit by the respondent Nos.7 & 8- PCMC that the Project Proponents along-with one Mr. Dilip Motilal Chordia and Mr. Rahul Tukaram Saste have carried out illegal plotting and illegal construction of erecting bungalows in the said Survey Number, without obtaining any permission from the Answering Respondent. The Answering Respondent has registered an FIR No.0053/2020 dated 22.01.2020 against the owner of Plot No.90 (Part) of village Chikhali Taluka Haveli, Pune under Section 397 of the Maharashtra Municipal Corporations Act, 1949 at Bhosari, MIDC Police Station, for carrying out illegal plotting/ illegal dumping of debris on the premises, lying in the green belt within the blue flood line of River Indrayani. A copy of the FIR dated 22.01.2020 is annexed as Annexure R-1. Further in order to inform the public at large about such illegal plotting, since the same was likely to be sold to the buyers, who might not be aware of the situation, the Answering Respondent through its Commissioner issued a communication dated 11.03.2020 to the Inspector General of Registration and Controller of Stamps, to not register any kind of transaction document pertaining to



the aforesaid Survey Number. A copy of the communication dated 11.03.2020 is annexed as Annexure R-2.

24. It is further mentioned in this affidavit by the respondent Nos.7 & 8-PCMC that the Answering Respondent has also issued Demolition Notices to the respondent No.15-Mr. Dilip Motilal Chordia on 20.05.2019 under Section 53 of MRTP Act 1966 and on 25.10.2021, under Section 53 of the MRTP Act read with Section 260, 478, 267 and Section 261 of the Maharashtra Municipal Corporation Act, 1949 for carrying out illegal construction and dumping in the prohibited zone lying within the blue flood line of the River Indrayani. A copy **each** of the demolition notices dated 20.05.2019 and 25.10.2021 is annexed as Annexure R-3 (Colly).

25. It is further mentioned in this affidavit by the respondent Nos.7 & 8-PCMC that on 20.01.2021, the Government of Maharashtra, Urban Development Department vide Notification bearing Reference Number: TPS-1815/428/C.R.138/15/UD13 has permitted construction in the land falling between the blue flood line and the red flood line of the rivers, falling within the limits of Pimpri Chinchwad Municipal Corporation. A copy of the Notification dated 20.01.2021 is annexed as Annexure R-4. It is further submitted that the Project Proponent has obtained permission for plotted layout on 15.11.2022 as per the Notification dated 20.01.2021 of the Government of Maharashtra, Urban Development Department, from the Answering Respondent in respect of an area admeasuring 3,207.24 Square Meters, located at Survey No.90(Part) of Village Chikhali Taluka Haveli, Pune. The said area of 3,207 Square Meters is located between the Blue line and Red line in the Restricted Zone. The said permission has been issued with the necessary conditions mentioned in the UDCPR and shall be subject to the outcome of this Original Application.

26. It is further mentioned in this affidavit by the respondent Nos.7 & 8-PCMC that the Project Proponent has paid 50% of Rs.6,81,000/- to the Assistant Town Planner and remaining 50% to the Answering Respondent as premium for converting the said area into a residential zone. A Copy of the permission for Plot Layout dated 15.11.2022 along-with the sanction for Plotted layout is annexed as Annexure R-5 (Colly). The said permission has been issued as per the provisions of UDCPR Notification, clause 3.1.3, which reads as follows:-

*“3.1.3 Construction within Blue and Red Flood Line.*

*i) Where Blue and Red flood line are marked on the Development Plan/ Regional Plan or received from the Irrigation Department.*

*a) The Red Flood Line and Blue Flood Line shall be considered as per the plan prepared by the Irrigation Department. The area between the river bank and blue flood line (Flood line near the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water / gas / drainage pipe lines, public toilet or like uses, provided the land is feasible for such utilization. Provided that, redevelopment of the existing authorised properties, within river bank and blue flood line, may be permitted at a plinth height of 0.45 m. above red flood line level.*

*b) Area between blue flood line and red flood line shall be restrictive zone for the purposes of construction. The construction within this area may be permitted at a height of 0.45 m. above the red flood line level.*

*c) If the area between the river bank and blue flood line forms part of the entire plot in Development Zone, then, FSI of such part of land may be allowed to be utilised on the remaining land.*

*d) The red and blue flood line, if shown on the Development/Regional Plan / Planning Proposal shall stand modified as and when it is modified by the Irrigation Department.”*

27. A copy **each** of the extract of Clause 3.1.3 of the Unified Development Control and Promotion Regulations for Maharashtra State (UDCPR) dated 02.12.2020 is annexed as Annexure R-6.

28. It is further mentioned in this affidavit by the respondent Nos.7 & 8-PCMC that though the permission has been obtained by the Project Proponent for plotted layout in the said area, no sanction has yet been applied for by the project proponent nor has any construction been erected

except for the construction of 1 bungalow. Pursuant to the aforesaid permission, the Answering Respondent made a communication dated 05.04.2021 to the Inspector General of Registration and Controller of Stamp to unblock the earlier request sent by the answering Respondent with respect to the area admeasuring 3,207.24 Square Meters located at Survey No.90(Part) of Village Chikhali Taluka Haveli, Pune. A copy of the communication dated 05.04.2021 is annexed as Annexure -7.

29. It is further mentioned in this affidavit by the respondent Nos.7 & 8-PCMC that as per the directions of this Tribunal vide order dated 02.02.2023, the Answering Respondent has furnished the details of all the illegal construction carried out in the area lying in the Prohibited zone of the Blue Flood Line of the River Indrayani, in which it is submitted that a total number of 29 bungalows have been illegally constructed in the area falling within the Blue Line of the River Indrayani at Survey No 90 (Part) of the Village Chikhali. A list of the owners, who have illegally constructed bungalows, is annexed as Annexure R-8. The said persons have not obtained any permissions from the Answering Respondent and that the Answering Respondent has already issued demolition Notices to 13 owners of the bungalows (as and when it observed illegal construction in the vicinity), for demolition as per the provisions of the Section 478 (1) & Section 433(C) of the Maharashtra Regional Town Planning Act, 1966. Further, the Answering Respondent is in the process of issuing Notices of demolition and registration of FIR against the remaining owners of the illegal bungalows. Therefore, it is prayed that necessary action may be taken against the project proponents and the owners of the illegal bungalows and the said Original Application may be decided accordingly.

30. From the side of respondent No.2- The Principal Secretary, Environment Dept., Government of Maharashtra, reply affidavit dated

13.02.2023 has been filed, wherein it is submitted that the entire project is affected by Blue Flood Line of River Indrayani. Construction has been undertaken by the PP by doing dumping of construction debris from River Residency Project undertaken by Respondent no.13 and thereby doing reclamation in the river illegally. No application for EC for the said project had been received and it has not granted any EC to the said project.

31. From the side of respondent No.12- M/s. Jare Group (JARE WORLD) and respondent No.13- M/s. V. Square, reply affidavit dated 14.02.2023 has been filed, wherein it is submitted that Gat No.90 situated at village Chikhali Tal- Haveli, Dist Pune is totally admeasuring about 22 Hector and 31 Acre along-with Pot Kharaba of 00 Hector 79 Acre. The said entire Gat is owned and leased by various landowners and entities. The Gat No.90 is lying within the jurisdiction of Pimpri Chinchwad Municipal Corporation, which declared the part of said Gat Number as Residential Zone and Part as Green Zone. Out of the entire Gat no.90, the answering respondents have purchased the land admeasuring 01 Hector 12 Are i.e. 11,200 sq. mtrs. from Dilip Motilal Choradiya and Indrayani Promoters and Developers vide registered sale deed dated 25/12/2020 (not annexed herewith) registered at Sub- Registration office Haveli - 14 and further area admeasuring 0Hector 30.38 acre i.e. 3038 sq. mtrs. is purchased from the above-mentioned owners vide registered sale deed dated 25/12/2020 (sale deed not annexed).

32. It is further mentioned in this affidavit by the respondent Nos.12 & 13 that the applicant has impleaded the answering respondents in order to mislead the Tribunal. Applicant has projected the respondent nos.12 and 13 as project proponents even before they became owners of the land situated at Gat No.90 of village Chikhali. Applicant had purposefully not impleaded original owner one Mr. Dilip Motilal Chordia as party

respondent in the present original application, who *prima facie* violated the environmental norms, as an FIR was registered against Mr. Dilip Motilal Chordia by the PCMC- respondent nos.7 & 8 on 22/01/2020. Mr. Dilip Motilal Chordia was served with the demolition notice by the PCMC on 20/05/2019 and further again on 25/10/2021 for illegal construction and dumping in the prohibited zone lying within the blue line of River Indrayani and the said fact was very well within the knowledge of the applicant.

33. It is further mentioned in this affidavit by the respondent Nos.12 & 13 that the answering respondents have not carried out any illegal activity or any construction as alleged by the applicant in his entire application and have purchased the said land as stated above after obtaining the permission for plotted layout on 15/11/2022 as per the Notification dated 20.01.2022, as the notification dated 20.01.2021 of the Government of Maharashtra, Urban Development Department in respect to the area admeasuring 3,207.24 sq. mtrs. located at Survey no.90 (part) of village Chikhali Tal. Haveli Dist. Pune. The said area of 3207 Sq. mtrs is situated between the Red Line and Blue Line in the restricted zone. Further, it is mentioned that respondent nos.07 & 08 have specifically mentioned the names of persons, who made illegal construction on the land and had issued necessary demolition notices. After perusal of the said list submitted by the respondent nos.07 and 08, the names of the answering respondents have nowhere been mentioned in the said list. Hence, it is prayed that the present Original Application be rejected with heavy cost.

34. Applicant has filed rejoinder affidavit dated 01.03.2023 to the reply affidavit of respondent Nos.12 & 13-PPs; respondent No.11- M/s. River Residency; respondent Nos.7 & 8- PCMC; and respondent No.3- SEIAA, wherein it is submitted that respondent Nos.12 & 13-PPs have suppressed

the documents pertaining to land purchase from being placed before NBT, intentionally. They are in collusion with the respondent No.15- Shri. Dilip Motilal Chordia and Indrayani Promoters & Developers has purchased the prohibited land for its project to carry out the illegal construction and it was well within the knowledge of the respondent Nos.12 & 13-PPs that the said land was prohibited land and that the transaction with the land owner is old, but only the registration is done subsequently and taken the possession of land in defective situation and pushed their illegal development causing substantial damage to the environment and ecology.

35. It is further mentioned in this rejoinder affidavit by the applicant that respondent Nos.12 & 13-PPs have not taken any legal action against respondent No.14- Mr. Rahul Tukaram Saste and respondent No.15- Mr. Dilip Motilal Chordia for cancellation of transaction and carrying out the illegal development within the locality and are responsible for illegal dumping of waste and illegal construction carried out in prohibited blue flood line of the River Indrayani. Therefore, permission for plotted layout procured from the PCMC on 15.11.2022 for an area of 3207 M<sup>2</sup> is illegal. It is these two respondent Nos.12 & 13, who are normally responsible for the entire illegal development carried out on the land, which falls between "Nature Park & Sr. No. 89" from Sr. No.90(P) of the village Chikhali as disclosed in this present Original Application and other independent Original Application No.56/2020, which was filed for illegal dumping of construction material on the land in question, which falls between Sr. No.91 and STP.

36. With respect to respondent No.11- M/s. River Residency Developers, it is submitted in this rejoinder affidavit by the applicant that the reply of the respondent No.11-M/s. River Residency Developer is totally false and

misleading. The respondent No.11 has been put under specific allegation of dumping of construction waste and excavated material from its project.

37. With respect to respondent Nos.7 & 8- PCMC, it is submitted in this rejoinder affidavit by the applicant that the averments made therein are partly true and partly misleading. The PCMC has given clean chit to the respondent No.11- M/s. River Residency Developers in collusion with it. It is further submitted that the conduct of PCMC is totally illegal, as on the one hand, it issued notice for demolition of the illegal construction and removal of illegal dumping in the prohibited zone without getting compliance of the said notices and on the other hand, PCMC is issuing the permission and unlocking the area for registration and transfer by the PP providing him financial benefits at the cost of mother nature, which is the shocking & surprising conduct of the PCMC. It is further mentioned that it is admitted by the PCMC that 29 bungalows have been illegally constructed in the area falling within the Blue line of the River Indrayani at Survey No.90 (P) of Village-Chikhali and also admitted that no permissions were obtained from the PCMC about the said construction and yet they issued notices for demolition against only 13 owners of the bungalows and not against all. It has also been admitted that notice dated 25.10.2021 was issued for removal of illegal dumping having measurement of "100 Mtrs. X 120 Mtrs X 2 Mtrs" i.e. 24000 Cu. Mtrs. However, still the same has not been removed. Thus, PCMC Officers appear to be in collusion with the Project Proponents, who are causing these violations.

38. Rejoinder affidavit dated 19.04.2023 has been filed by the respondent No.13- M/s. V. Square to the reply affidavit of respondent No.2- SEIAA; respondent Nos.4 & 5- MPCB; respondent Nos.7 & 8- PCMC; and respondent No.11- M/s. River Residency Developers, wherein it is submitted that it has purchased the part of Survey No.90 (P) from Dilip

Motilal Chordia vide 2 registered sale deed bearing no.14253/2020 and 14334/2020 registered at Sub Registrar Haveli No.14 and therefore, respondent no.2 was duty bound to investigate, who is the actual culprit for the damage of the environment. The answering respondent has received NA order from the **concerned** department for the part of the said Survey No.90(P), which is owned by it and that respondent No.12 is nowhere related to the present property and that the said land does not need Environment Certificate.

39. It is further mentioned in this rejoinder affidavit by the respondent No.13 that Respondent nos.7 & 8 have failed to thoroughly investigate the land and realize the damage caused to the environment. It is reiterated that respondent Nos.12 & 13 have purchased the land but the development activities have not been done by them. Necessary permission regarding the NA order has been obtained by them. As the development activity has not been carried by the respondent nos.12 and 13, therefore, no permission to that effect has been obtained by them. It is further mentioned that it is true that Respondent no. 13 has purchased the said land from one Mr. Dilip Motilal Chordia in the year 2020, while the development activity had been carried out before the said plot was purchased by the Respondent no.13. The Respondent nos.7 and 8 have filed FIR against Mr. Dilip Chordia for illegal construction, which does not have the name of the Respondent nos.12 and 13.

40. It is further mentioned in this rejoinder affidavit by the respondent No.13 that respondent No.11 has deliberately caused damaged to the environment specially river Indrayani by throwing debris in the river bed of Indrayani river, which was outcome of the construction activity carried out by the Respondent no.11 and not by the Respondent nos.12 and 13. It has not done any construction on the bank of river Indrayani nor constructed



on any prohibited area as per the PCMC. It has sold only the empty land and the constructions were done by the individual owner of the said land. The debris at the bank of river Indrayani has been dumped by the Respondent no.11 as the Respondent no.11 has carried out construction activity on the Survey no.90 (P).

41. From the side of respondent Nos.7 & 8- PCMC, reply affidavit dated 18.07.2023 has been filed, wherein it is submitted that the applicant has filed several photographs, which are annexed at page nos.757 to 776 of the paper book. In these photographs, the structures/constructions, which are shown from the names of such persons, have been mentioned in this reply affidavit. The names, which are 27 in number, are found mentioned in Annexure R-1(Colly). All these structures were found to be unauthorized and therefore, these respondents have been issued notices for demolition.

42. From the side of respondent Nos.16 to 34, 36 to 44 and 46 to 48, reply affidavits have been filed, which are all identical. Therefore, contents thereof are being taken from the affidavit of respondent No.16 only, wherein it is submitted that the Gat No.90, situated at Village Chikhali, Tal- Haveli, Dist. Pune, is admeasuring about 22 Hector and 31 Are along-with Pot Kharaba of 00 Hector 79 Are. The said entire Gat is owned and leased by various landowners and entities, which has declared the part of said Gat number as Residential Zone, Part as Green Zone and Blue Zone. Original owner one Mr. Dilip Motilal Chordia, violated the environmental norms and hence FIR was lodged against him bearing no.53/2020 dated 22/01/2020. Applicant was well aware of the said fact but has the sole intention to cause harassment. Therefore, the applicant has made the answering respondent party in the present Original Application.

43. It is further mentioned in this affidavit by the respondent No.16 that Mr. Dilip Motilal Chordia was served with the demolition notice by the PCMC on 20/05/2019 and further again on 25/10/2021 for illegal construction and dumping in the prohibited zone lying within the blue flood line of River Indrayani. The answering respondent has not carried out any illegal activity or any construction as alleged by the applicant in his entire application. The answering respondent has purchased the land as stated above and also obtained the permission for plotted layout on 15/11/2022 as the Notification dated 20.01.2022 of the Government of Maharashtra, Urban Development Department in respect to the area admeasuring 3,207.24 sq. mtrs. located at Survey no.90 (part) of village Chikhali, Tal. Haveli, Dist. Pune. The said area of 3207 Sq. mtrs. is situated between the Red Line and Blue Line in the restricted zone. As regards debris, the same was thrown on the river bed in the year 2019, for which the answering respondent cannot be held liable. The PCMC has issued demolition notice for the illegal construction because the said construction is carried on without any permission from the concern authority of the PCMC and it nowhere states that the said construction is carried out in blue flood line area.

44. We have heard the arguments of applicant as well as that of learned counsel for other parties mainly the learned counsel for respondent Nos.16 to 34, 36 to 44 and 46 to 48-Private Respondents and have perused the record.

45. Applicant kept harping on the issue of construction made by these Private Respondents on the land in question falling in prohibited zone, after having purchased the same from the respondent Nos.12 & 13. He also drew our attention to the Map, which is annexed at page no.44 of the paper book, prepared by the Water Resources Department, Pune Irrigation

Circle, Government of Maharashtra, date of which is not mentioned thereon but we find at page no.15 of the present Original Application in para no.10 (B) (i) that this Map was prepared by the Irrigation Department near about January 2009 showing therein flood line in middle of the river and thereafter with light blue line, is the bank of river and thereafter, Survey No.90 is shown in three colours comprising green, pink and yellow. In this Survey Number, on the edge towards southern side of the part shown with green colour and pink colour where line is marked, which is said to be blue line and beyond that further towards south is the line shown by red colour, which is said to be red line of River Indrayani. The portion of the Survey Number with green colour is stated to be an area where all the illegal constructions of Private Respondents are located, which are prayed to be ordered to be demolished as per the Circular dated 21.09.1989 of the Irrigation Department, Government of Maharashtra, which is annexed at page nos.41 to 43 of the paper book, in prohibited zone of the river bed, on both banks, where no construction can be permitted and the said area can only be used for gardens, play grounds, light crops (only where there is established easement right to take crops). But we find that respondent Nos.7 & 8 in their reply affidavit dated 10.02.2023 have referred to Clause 3.1.3 of the UDCPR (Unified Development Control and Promotion Regulations) for Maharashtra State, which provides: where Blue and Red flood lines are marked on the Development Plan/ Regional Plan or received from the Irrigation Department, the area between the river bank and blue flood line (Flood line near the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water / gas / drainage pipe lines, public toilet or like uses, provided the land is feasible for such utilization. Further provided that, redevelopment of the existing

authorized properties, within river bank and blue flood line, may be permitted at a plinth height of 0.45 m. above red flood line level.

46. Based on the above, it is argued by the applicant that all the constructions, which have been found in the site in question, constructed by the Private Respondents, who have been impleaded herein, in violation of the above-mentioned provisions and hence, the said constructions need to be demolished.

47. From the side of Private Respondents, in rebuttal, it is being said by the learned counsel that no such construction has been done by them within blue flood line. But no documentary evidences have been placed before us to support their argument, rather they kept on repeating that they are innocent purchasers of the plot from the respondent Nos.12 & 13 and thereafter only, they have raised constructions. Therefore, they should not be penalized by ordering demolition of this kind.

48. Thereafter, the learned counsel for respondent Nos.7 & 8- PCMC has vehemently argued before us that there were 29 bungalows found at the site in question, existing within blue food line of the River Indrayani, which is a prohibited zone, where all these constructions have been made illegally, with respect to which notices have been issued to the owners of these 29 bungalows regarding demolition of the same. But thereafter, no action appears to have been taken in this regard by the respondent Nos.7 & 8- PCMC to ensure that the said action is finally taken.

49. It is also argued by the applicant as well as the learned counsel for respondent Nos.7 & 8- PCMC that as the proceedings are going ahead, even more bungalows have been constructed illegally by the purchasers of the plot on Survey No.90 (part) without any permission.

50. We find that vide earlier order, this Tribunal had also directed the Joint Committee to visit the site in question and submit its report, which report is found to be there on record at page nos.297 to 307 of the paper book, which has already been reproduced by us above. In their conclusion, the Committee has recorded that the Gat No.90 falls between the river bank and blue flood line of Indrayani River, which is a prohibited zone and that as per the Circular of the Government of Maharashtra, Water Resources Department and “Guidelines for restriction on Construction in flood prone area and demarcation of flood line to avoid damages due to flood, permissible land use in prohibitive zone and restrictive zone” dated 03/05/2018, the area under reference falls under blue flood line of Indrayani River. Hence, the filling and construction done in the blue flood line of Indrayani River should immediately be removed.

51. Therefore, we are of the view that certainly all the structures not only that of the Private Respondents, who are made parties herein but of others as well, which are found lying within the river bank and blue flood line of the River Indrayani, need to be demolished at the earliest. This act has to be performed by the respondent Nos.7 & 8- PCMC being the Controlling Authority. Regarding it, we find that respondent Nos.7 & 8- PCMC has already taken several steps by issuing notices to the parties concerned. But why they have not proceeded ahead, is not made clear. Therefore, we are also of the view that a timeline has to be prescribed for giving effect to this direction, which, in our estimation, should be within six months from the date of uploading of this Judgment, in accordance with law following full procedure including issuing show cause notices, if any, and providing an opportunity of hearing to the parties affected.

52. Now, we would like to take into consideration the issue as to from whom the amount of EDC is required to be levied, which according to the

Joint Committee Report is proposed to be Rs.5 Crores, to be levied from the respondent Nos.12 & 13. In this regard, we are of the view that these two respondents had only sold the land but construction has been made by the Private Respondents, which is also evident from the conclusions and recommendations of the Joint Committee. But we do not find any evidence to have been led in support of this conclusion drawn by the Joint Committee. Nowhere has it come **in** record that they have raised any construction except the plotting work. Therefore, if at all any debris might have been thrown on the banks of River Indrayani, the same can be clearly concluded to have been thrown by the parties, who have raised construction over there. Therefore, the owners of 29 bungalows certainly might have been thrown construction debris and apart from that, any other construction, which has come subsequently, they may also be held liable for throwing debris at the site in question. Therefore, all of them may be taken to be collectively responsible for causing environmental damage and must be held to suffer levying of an EDC amount from them proportionately. As to how much amount comes to the share of which party, to be deposited, has to be ascertained by the respondent Nos.7 & 8-PCMC, within a period of six months from the date of uploading of this Judgment based on the basis of total built up area of the individual plots.

53. In view of above, we dispose of this application with the following directions:-

- (i). All the illegal constructions of bungalows and other structures found to be there within the Survey No.90(Part), which fall within river bank and blue flood line of Indrayani River including those of 29 bungalows of the respondents, who have been impleaded **herein** and other bungalows, if any, are found to be there, shall be demolished by the respondent Nos.7 & 8-

PCMC within a period of six months from the date of uploading of this Judgment, in accordance with law and after providing an opportunity of hearing to the affected persons.

- (ii). We further direct that the respondent Nos.7 & 8- PCMC shall also levy the amount of EDC, which has been calculated by the Joint Committee to be Rs.5 Crores, from all the Private Respondents, who have raised construction over there and if any other respondent is found to have raised construction in the meantime, the amount shall be realized proportionately on the yardstick of plot area. This activity shall also be completed within a period of six months from the date of uploading of this Judgment.
- (iii). Compliance report thereof shall be submitted by the respondent Nos.7 & 8- PCMC to the Registry of this Tribunal within a period of one month after expiry of the above-mentioned period.

54. All pending applications, if any, also stand disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 01, 2024  
Original Application No.50/2020(WZ)  
I.A. No.71/2020(WZ) & I.A. No.55/2023(WZ)  
P.Kr.