

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 49/2019 (WZ)

Sarang Yadwadkar & Ors.

Applicant(s)

Versus

Pune Municipal Corporation & Ors.

Respondent(s)

Date of hearing: 26.09.2019

CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Ms. Prerna Venkatesh, Advocate

For Respondent (s): Mr. Amol S. Patayeet & Mr. Amit Lanke,
Advocates for Respondent No. 2.
Mrs. Supriya Dangare, Advocate and Mr.
Vijay Pandurang Patil, Executive Engineer
for Respondent No. 3.
Ms. Manasi Joshi, Advocate for
Respondent No. 6.

ORDER

1. The application has been preferred pointing out indiscriminate dumping of construction materials on the flood plains of the rivers flowing through Pune and Pimpri Chinchawad cities, Maharashtra more particularly the Mula Mutha river. It has been alleged that obstructions have been caused throughout the rivers due to the indiscriminate dumping and encroachments in clear violation of the order of the Tribunal dated 27.03.2015 in *Sarang Yadwadkar &*

*Anr vs. State of Maharashtra*¹ prohibiting construction of any kind was within the distance of 50 meters from the Blue Line of rivers in Maharashtra. 12 instances of encroachments set out in the application reproduced in our order dated 23.07.2019 are as below:

- i. *Encroachment on the left bank of River Mula by dumping huge quantities of construction debris at Babasaheb Ambedkar Bridge at Pimple Nilakh which is under PCMC limits.*
- ii. *Encroachment on the right bank of Pawana River, by dumping construction debris at bridge connecting Pimpri and at Pimple Saudagar, which is under PCMC limits.*
- iii. *Encroachment on both banks of Pawana River, by dumping construction debris near the bridge connecting Pimple Gurav and Kasarwadi, under PCMC limits.*
- iv. *Encroachment on the right bank of Pawana River, by dumping construction debris near the bridge at Pimple Gurav, which is under PCMC limits.*
- v. *Encroachment on the right bank of Pawana River, by dumping construction debris near Karmavir Bhaurao Patil Road, Sangvi; which is under PCMC limits.*
- vi. *Encroachment at the confluence of Mula River and Ram Nadi by dumping huge amount of debris near the left bank of Mula River and Pimple Nilakh which comes under PCMC limits.*
- vii. *Encroachment on Mutha Riverbed by way of dumping of huge quantities of soil on the left bank of Mutha River near Deccan Gymkhana and behind Sambhaji Park within PCMC limits between Chainage 12350 M. and 13350 M. downstream of Khadakwasla Dam.*
- viii. *Multiple encroachments at Sangamwadi Road on the left bank of Mula-Mutha River starting from the confluence of Mutha and Mula River up to more than 1 km. Downstream side of the confluence.*
- ix. *Dumping on Mutha River is near Sangam Bridge just before the confluence of Mutha and Mula rivers.*
- x. *Encroachment on Mutha River by dumping debris is at the bridge connecting Nanded Village to Shivane Village, i.e., at Chainage 3358 M. downstream of Khadakwasla Dam.*
- xi. *Encroachment on Mutha Riverbed by way of huge dumping of debris is on the left bank of Mutha River behind Dangat Industrial Estate, Village Shivane, approximately between Chainage 3980 M. and 4500 M. downstream of Khadakwasla Dam.*
- xii. *Impediment/interference at chainage 3900 M. downstream to Khadakwasla Dam. In this instance, a huge chunk of land is robbed from left bank to right bank of Mutha River by shifting the entire course of the river towards left from its original position.”*

2. Considering the seriousness of the violations, a Committee was constituted comprising of (i) the Chief Engineer, Water Resources

¹ 2015 SCC on-line NGT 71

Department (Government of Maharashtra), (ii) the District Collector, Pune, (iii) the Member Secretary, Maharashtra Pollution Control Board, (iv) the SEIAA, Maharashtra and (v) a Senior Scientist from the CPCB, Regional Office at Pune to look into the matter. The Committee was directed to inspect the areas in question, verify on the factual aspects contained in the application and take appropriate measures, if the allegations were found to be correct.

3. Report has been filed by the MPCB on behalf of the Committee which indicates that the complaint made by the Applicant in the Original Application are substantiated as will be evident from the following reproduction of the report:

"1) Inspection of Mutha River

- 1. At Nanded-Shivane bridge on Mutha River, encroachment in the form of land fill & debris dumping on upstream and downstream sides of Nanded to Shivane bridge on both left and right side of Mutha river. By visual inspection up approximately for upstream side of bridge both sides of River ground of 100m width 5m, height 2.5m debris is dumped along river side as downstream side both side of the river around length of 200m av. Width 50m and average Height 2.5m Debris has been dumped.*
- 2. At Dangat Patil Industrial Estate encroachments in the form of land fill & debris dumping is observed on the left bank of Mutha river around length of 600m and width 20m and average height 15-20 m has been found. WE also seen their sewage water & industrial waste water from industrial estate directly released into the Mutha river at various places*
- 3. At Nanded city area at ch.3/900m d/s of Khadakswasla dam we have observed the encroachment in the form of land filling & debris dumping along the right side of Mutha river approximately length of 200m and width of 25 m and average height of 2 m and construction of temple is also in progress at this location. Its cause's major obstruction to river flow.*
- 4. At Sambhaji Park/Deccan Gymkhana we observed that the encroachment in the form of land filling on the left side of Mutha River by way of dumping huge quantity of*

soil/debris which is approximately 1500 m in length 5-10m width and average height at 2.00 m along Mutha river left side is done during the construction of piers in river, and its cause's major obstruction to river flow.

5. At Sangam bridge in Mutha River at ch 14686 from Khadakwasia dam it is observed that huge quantity of soil, debris and cement pipes has been dumped in left side of Mutha river by Metro Rail Corporation. It is approximately 110m in length and 25m width and average height 15m along left side of Mutha river, causing major obstruction to the river flow.

2) Inspection of Mula-Mutha river

1. At Sangam Bridge.

On banks of Mula-Mutha River on the left side opposite to College of Engineering, Boat Club it is observed that at two location filling of murum, construction material debris is dumped to a height of 12 to 14m from river bed level within blue line of Mular River. At first location on filling of debris on river bank a approximate area of 2000 sq.m is created on which 35 to 40 temporary sheds and hut type houses are constructed. Nearly 40 families are staying at location. PMC had provided basic facilities like light, drinking water and sanitation facilities to the families. Due to the facilities provided by PMC in future likely to be that more sheds construction will be done.

- 2 At Sangarowadi - Near Sangarowadi on the left side of Mula-Mutha River private transporter had dumped murum, debris within blue line to the height of 14m and created table land of 400 sq.m on which vehicles are parked and some sheds are constructed.

Due to mass filling on the left side of Mula-Mutha River at both location flood water had crossed marked blue line and red line and spread over areas damaging the properties of families. In his year Aug 2019 flood water its is observed vertical rise of 15m than the last few years floods observed. On observations it is necessary to remove all filled material within blue line immediately to avoid disaster in future.

3) Mula River

1. Near Dr. Babasahed Ambadkar Bridge (At Pimple Nilakh)

On Mula river a bridge is constructed to connect PMC (Baner) and PCMC (Pimpale Nilakh). On both sides a heavy dumping of soil & debris is done on banks of Mula river within blue line. On Pimpale Nilakh side on corner junction filling of Murum, construction debris is done private entrepreneur to height of 16 m from river bed level and created table land of 6000 sq. m. Due to this encroachment in August 2019 flood water line had entered in premises Jupiter Hospital and entire low lying area of Balewadi. It is observed vertical 15 m rise flood water level in this year. Also during August 2019 flooding

bridge was closed for two days as flood water rise to height of 0.60 m level on approach roads of both sides.

2. On observation from Baner Side at junction of Dev river and Mula river, a private builder had dumped filling material and obstructed the flow of Dev river due to which rise in flood level at places of Jupiter Hospital, parts of Balewadi and Baner.

On observation it is necessary to remove the dumping or otherwise every year flood disaster will happen.

- 4) Ram River

1. Mule River & Ram River Confluence (At Pimpale Nilakh)

The Ram river meets at Mula river at junction Near Aundh at confluence of both river it is observed on opposite side of PCMC area a filling of debris from bridge to the Smamshan Bhumi to a height of 14 m from riverbed level. A huge rectangular plot is developed, PCMC had also constructed retaining wall within blue line which had obstructed a natural flow of Mula river. The National Green Tribunal of retaining wall is 170 m in in National Green Tribunal parallel to river flow. Due to the construction activities carried out by PCMC it had made easier to dump material along river.

In future if encroachment is not stopped and the dump material is not removed within the blue line a heavy disaster is likely to happen, river may change its direction of flow which would lead to heavy losses of property and living habitats. Its cause's, major obstruction to river flow.

2. On observation at locations of various bridges constructed by PMC and PCMC a heavy dumping is done for construction activities and on completion of these structures dumped material is not removed which leads to deposition in river bed level. This affects the flood carrying capacity of rivers & its cause's major obstruction to river flow.

- 5) Pawana River

1. Pawana River-Kamvir Bhavrao Patllroad, Sangavi-

Along right bank of Pawana river length approximately 1.00 km. from Pimple Gurav to Samshan Bhumi encroachment made by villagers by dumping huge quantity of debris, road asphalt, rubbish and Murum. Dumping and after levelling the debris, villagers has developed shops and stalls of various type in fabricated material. Height of dumped material is about 3m to 4m in flood plain of river. Due to this natural cross section of river was totally disturbed at one side. This type of encroachment patter is seen along both banks of Pavana River throughout length in the city area.

At location of Samshan Bhumi concrete platform, steps and shed. Constructed in Pawana river right bank

diverting natural river flow, its cause's major obstruction to river flow.

2. *Pawna River-Near Pimpale Gaurav Bridge, Dapodi-*

On Pawna river ridge is constructed for connection Pimple Gurav to Dapodi at ch 41587 Mtrs. On both side of Pawna riverbank, debris, rubbish and murum is dumped and by this levelling parking place is developed on left bank dumping of rubbish and debris is in progress to raise the ground level so it can be seen above blue line. Due this river natural water way and flood place is seen disturbed height of filling seen 3 to 3.5 m and length, about 4m U/s. and D/s side of bridge. Its cause's, major obstruction to river flow.

3. *Pawna River-Pimpale Gurav to Kasarwadi Bridge-@ch39237 mtrs.*

On U/s and D/s side and both bank of Pawna River road asphalt rubbish, debris, and murum is dumped in huge quantity On U/s side of bridge, right bank of Pawna river, PCMC is developing garden by constructing retaining wall on river bank and filling river flood plain up to road level is seen. Approximately area of garden is 6000 sqm also recently temple is constructed on left bank of river in flood plain. Its cause's major obstruction to river flow.

4. *Pawna River - Pimpale to Pimple Saudager Bridge - @ch36014 mtrs to flood line map*

We observed that the on the right bank and daon stream of bridge temple was constructed in flood place of river. Also seen debris and rubbish dumping on river bank heigh about 2.5m and area 4000 Sqm. This patter is seen throughout length of Pawna river on both bank. Its cause's major obstruction to river flow.

In general we have seen that the process of encroachment in river course & banks in flood zone is continuous in progress since leetretayeyees. It needs to be seriously monitored & prevented by Local bodies. To avoid these type of encroachment a committee needs to be formed comprising of concerned authorities like PMC, PCMC, PMRDA, Commissioner of Police, Superintendent of Police & WRD to take appropriate action against these encroachment and also to remove the debris & to avoid the flood situation in future. k).tr'Per Maharashtra Land Revenue Code 1966 Clause No 20 All. the properly at the State Government i.e. River streams, rialtos, lakes, tanks and all canals ant water courses. standing and flowing water and all lands wherever situated, the Collector is the owner on behalf or Government. s per Clause 1'40.50 the District Collector was authorized take action against any unauthorized encroachment in Government property. District collector is fully authorized to prohibit the encroachment, he can removed any such encroachment & levied penalties such type of encroachment, so in the above matter also District Collector may take actions & removed all such encroachment with the coordination of local bodies & authorities. Water' Resources Department has written several letters to Local Governing bodies namely Pune Municipal

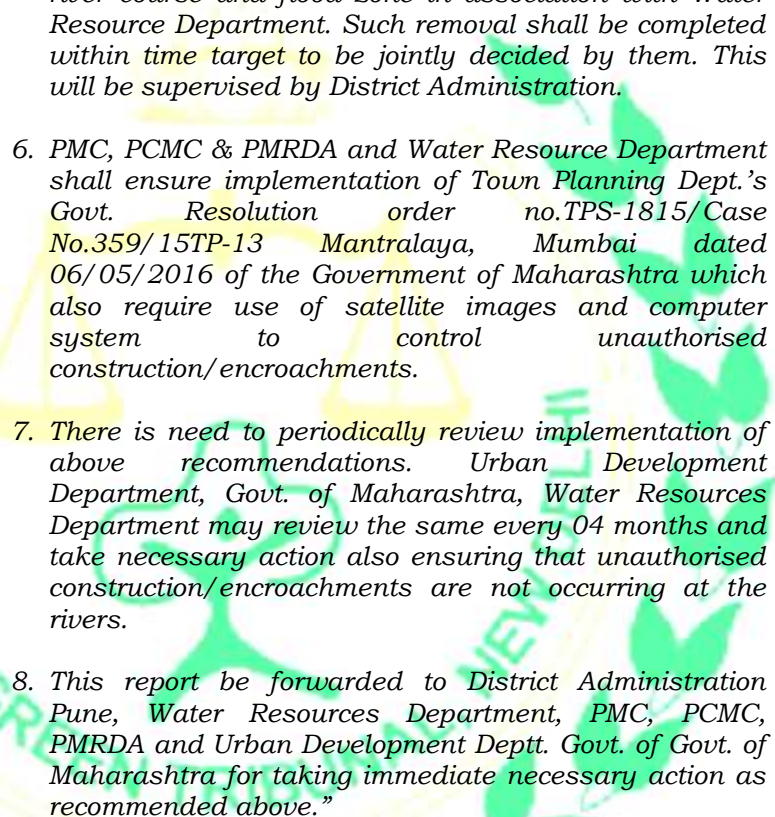
Corporation/Pimpri Chinchwad Municipal Corporation to make them aware, informed about Land filling, debris filling is being made in these rivers. Water Resources Department also informed concerned Police stations to dumping being done in therivers Reference of these letters are mentioned below

- 1 Letter of Executive Engineer, Khadakvasla Irrigation Division to commissioner pmc pune EE/KID/P6-1/3270/2017 Dated 24/05/2017
- 2 Superintending Engineer. Pune Irrigation Circle, Pune's D.O Letter No P3 2/299136 D1,26.05,2017 (iselinissioner, Pune Municipal Corporation, Pune
- 3 Superintending Engineer, Pune. Irrigation Circle, Pune's D.O. Letter No PO4 /38 0129.05.2017 to Commissioner, Pune Municipal Corporation, Pune
- 4 Superintending Engineer Pune Irrigation Circle, Pune's Letter NO,PB2/299/4462 01.03 06 201 to Commissioner, Pune Municipal Corporation, Pune
5. Superintending Engineer, Pune irrigation Circle, Pune's Letter No. PB- 2/NGT/5416 Dt. 14.07.2017 to Commissioner, Pune Municipal Corporation, Pune.
6. Superintending Engineer, Pune irrigation Circle, Pune's Letter No. PB-4/ Floodline/ Mula/8863 Dt. 16.11.2017 to Commissioner, Pimpri, Chinchwad, Municipal Corporation, Pune.
7. Superintending Engineer, Pune irrigation Circle, Pune's Letter No. PB-2/229/4252 Dt. 11.06.2018 to Superintending Engineer, Mechanical Circle, Central Building, Pune-41101.
8. Superintending Engineer, Pune irrigation Circle, Pune's D.O. Letter No. PB-2/299/166 Dt. 29.12.2018 to Commissioner, Pune Municipal Corporation, Pune.
9. Letter of Superintending Engineer, Pune irrigation Circle, to Metro Railway Pune PIC Pune/PB-2/417/2017 Dated 15/01/2019.
10. Superintending Engineer, Pune irrigation Circle, Pune's Letter No. PB- 2/229/572 Dt. 17.01.2019 to Commissioner, Pune Municipal Corporation, Pune.
11. Superintending Engineer, Pune irrigation Circle, Pune's Letter No. PB- 2/3973 Dt. 23.05.2019 to Commissioner, Pune Municipal Corporation, Pune.
12. Superintending Engineer, Pune irrigation Circle, Pune's Letter No. PB- 2/3973 Dt. 23.05.2019 to Executive Engineer, Khadakwasla Irrigation Division, Pune
13. Letter of Superintending Engineer, Pune irrigation Circle to Metro Railway Pune, PIC Pune/PB-2/66/2017 Dated 21/06/2019.
14. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line/2820/2017 Dated 24/05/2017.
15. Letter of Executive Engineer, Pune Irrigation Division, to PCMC Outward No. EE/PID/PB-1/Flood Line/2819/2017 Dated 24/05/2017.
16. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line3894/2017 Dated 26/07/2017.
17. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line/3894/2017 Dated 26/07/2017.

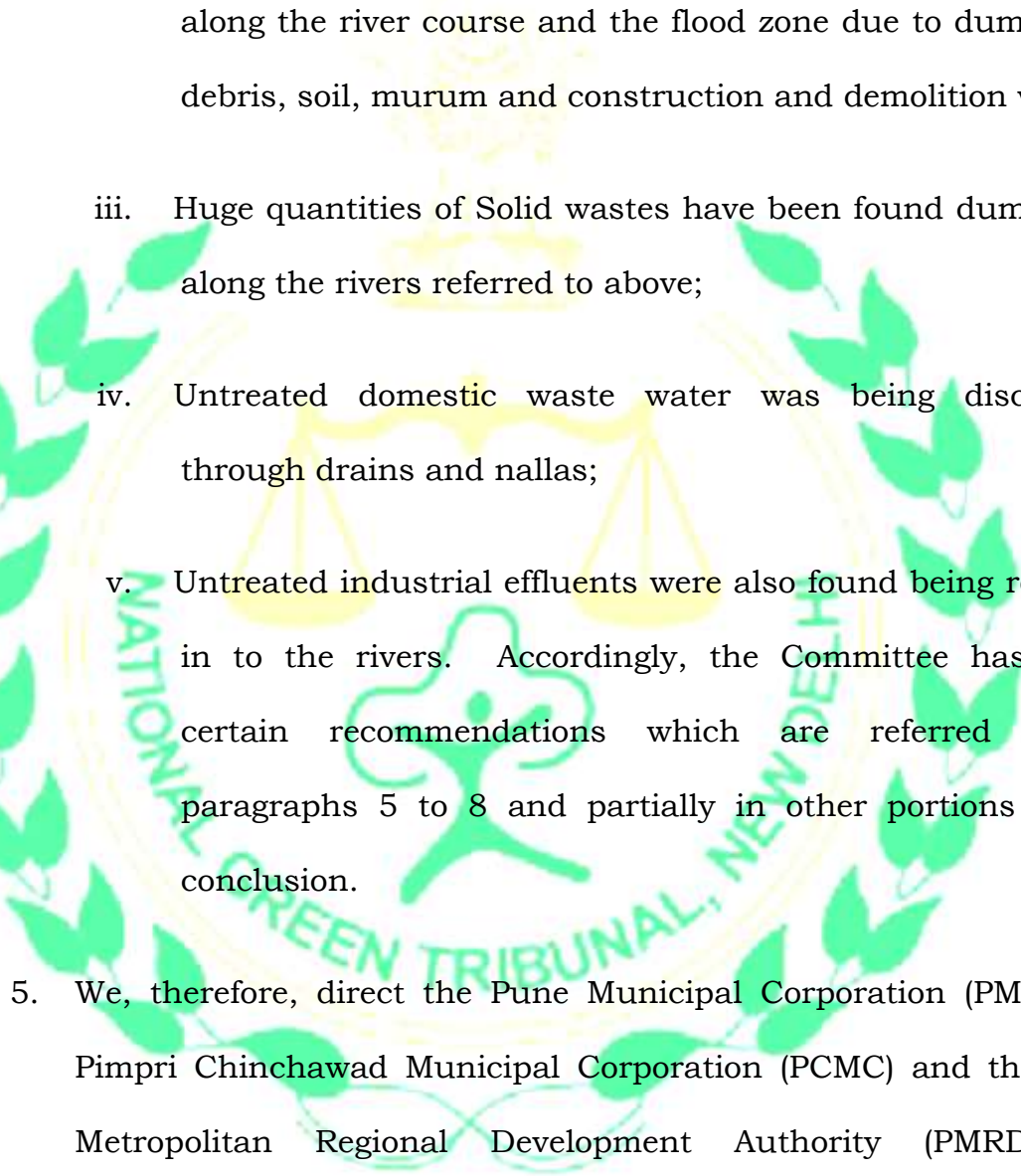
18. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line/3894/2017 Dated 26/07/2017.
19. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line/3894/2017 Dated 26/07/2017.
20. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line/3894/2017 Dated 26/07/2017.
21. Letter of Executive Engineer, Pune Irrigation Division, to PMC Outward No. EE/PID/PB-1/Flood Line/3894/2017 Dated 26/07/2017.
22. Letter of Executive Engineer, Pune Irrigation Division, to PCMC Outward No. EE/PID/PB-1/Flood Line/3900/2017 Dated 26/07/2017.
23. Letter of Executive Engineer, Pune Irrigation Division, to PCMC Outward No. EE/PID/PB-1/ Harris Bridge/2850/2018 Dated 04/06/2018.
24. Letter of Executive Engineer, Pune Irrigation Division, to PMC & PCMC Outward No. EE/PID/PB-1/FloodLine/Mula/2851/2018 Dated 04/06/2018.
25. Letter of Executive Engineer, Pune Irrigation Division, to PMC & PCMC O No. EE/PID/PB-1/PCMC-PMC/Atikraman/4121/2019 Dated 15/07/2019.
26. Letter of Executive Engineer, Pune Irrigation Division, to PMC & PCMC O No. EE/PID/PB-1/PCMC-PMC/Atikraman/4121/2019 Dated 15/07/2019.
27. Letter of Superintending Engineer, Pune irrigation Circle, Outward No. PIC Pune/PB-2/417/2017 Dated 15/01/2019.
28. Letter of Superintending Engineer, Pune irrigation Circle, Outward No. PIC Pune/PB-2/66/2017 Dated 21/06/2019.
29. Letters to Pimpri Chinchwad Municipal Corporation was issued from time to time. Also meeting were held in Pimpri Chinchwad Municipal Corporation regard this. Flood line maps of Pawana River in PCMC limit were submitted to Pimpri Chinchwad Municipal Corporation wide Pune Irrigation Circle ltr no./pb-2/flood line/panwana/1630/2009 on date 18/02/2009.

Conclusions:-

1. Based on observations made during inspection of Mutha, Mula-Mutha, Mula and Pawana rivers by the committee, facts mentioned by the applicants in their application dated 23.07.2019 are found correct.
2. Due to these encroachments in the rivers, discharge carrying capacity of rivers is decreasing day by day & creating floods situation.
3. Unauthorised constructions/encroachments in river course & flood zoned have occurred by way of dumping of debris and materials like soil, murum & dismantled material, etc. Such unauthorised constructions/encroachments shall be identified jointly by PMC, PCMC, PMRDA and Water Resources Department, Govt. of Maharashtra, by 20/09/2019.

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4. Massive solid waste dumping is observed in all the above rivers, viz Mutha, Mula and Pawana at various locations. It is observed that, untreated domestic waste water is being released in all above rivers at various locations through drain & nallas. Also, at some locations untreated industrial effluent (i.e. Dangat Patil Industrial Estate released in above rivers. These solid waste dumpings shall be removed from the rivers by the concerned civic bodies viz PMC, PCMC & PMRDA. Maharashtra Pollution Control Board (MPCB) should strictly control these dumping of solid waste in the river & release of untreated domestic and industrial effluent in the rivers.
 5. PMC, PCMC & PMRDA shall immediately start removing such unauthorised constructions/ encroachments from river course and flood zone in association with Water Resource Department. Such removal shall be completed within time target to be jointly decided by them. This will be supervised by District Administration.
 6. PMC, PCMC & PMRDA and Water Resource Department shall ensure implementation of Town Planning Dept.'s Govt. Resolution order no.TPS-1815/Case No.359/15TP-13 Mantralaya, Mumbai dated 06/05/2016 of the Government of Maharashtra which also require use of satellite images and computer system to control unauthorised construction/encroachments.
 7. There is need to periodically review implementation of above recommendations. Urban Development Department, Govt. of Maharashtra, Water Resources Department may review the same every 04 months and take necessary action also ensuring that unauthorised construction/encroachments are not occurring at the rivers.
 8. This report be forwarded to District Administration Pune, Water Resources Department, PMC, PCMC, PMRDA and Urban Development Deptt. Govt. of Maharashtra for taking immediate necessary action as recommended above."

4. As would be evident, the very first paragraph of conclusions states that, as per the observations made by the Committee in respect of Mutha, Mula-Mutha, Mula and Pawana rivers, it was found that the facts stated by the Applicants are correct. The report further reveals *inter-alia* as follows:

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- i. The encroachments in the rivers has caused decrease in the discharge carrying capacity of the rivers and creating a flood situation;
 - ii. Unauthorised constructions/encroachments have come up along the river course and the flood zone due to dumping of debris, soil, murum and construction and demolition waste;
 - iii. Huge quantities of Solid wastes have been found dumped all along the rivers referred to above;
 - iv. Untreated domestic waste water was being discharged through drains and nallas;
 - v. Untreated industrial effluents were also found being released in to the rivers. Accordingly, the Committee has made certain recommendations which are referred to in paragraphs 5 to 8 and partially in other portions of the conclusion.
5. We, therefore, direct the Pune Municipal Corporation (PMC), the Pimpri Chinchawad Municipal Corporation (PCMC) and the Pune Metropolitan Regional Development Authority (PMRDA) to immediately act in terms of the recommendations for removal of all unauthorized constructions raised within the prohibited areas and restore the rivers to its original form. All drains and nallas discharging untreated waste water and untreated industrial effluent be diverted to available STPs and CETPs in order to ensure

that the untreated waste water and effluents are not discharged directly into the rivers and, all obstructions caused to the rivers mentioned by the Committee shall be removed.

6. In the meanwhile, an action plan providing the timeline and budgetary provisions prepared by the PMC, PCMC and PMRDA shall be placed before us without fail within a period of one month.

In carrying out this task, we direct that the Water Resources Department, Government of Maharashtra through its Chief Engineer, Pune Irrigation Circle, shall also be involved.

7. Considering the alarming situation which the report of the Committee demonstrates, we direct that the action plan be filed within the time prescribed without fail. We make it clear that if action plan is not filed as directed within time, the PMC, PCMC and the PMRDA shall be liable to pay cost of ₹1 Crore each.

8. List on 26.11.2019.

S. P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

26th September, 2019

O.A. 49/2019 (WZ)

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