

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

APPLICATION No.8/2015(WZ)

CORAM:

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

**Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

In the matter of:

**Sujal Sahakari Gruha Rachana
Sanstha Maryadit,**

Through Chairperson Mrs. Ujwala
Vivek Ghanekar,

Age : 57 years, Occ : Business

R/at 402, Sujal Co-op. Housing
Society Ltd.,

100 D.P. Road, Opp. Shubharambha
Lawns,

Patwardhan Baug, Pune - 411 052.

.....Applicant

VERSUS

- 1. The Commissioner,**
Pune Municipal Corporation,
Corporation Building, Shivajinagar,
Pune - 411 005.
- 2. Maharashtra Pollution Control
Board,**
Jog Centre, 3rd Floor,
Mumbai - Pune Road, Wakadewadi,
Pune - 411 003.
- 3. The Chief Engineer,**
Khadakwasla Irrigation Division,
Irrigation Department, Govt. of
Maharashtra, Sinchan Bhavan,
Barne Road, Mangalwar Peth, Pune.
- 4. Director General of Police,
Maharashtra,**
Through the Police Commissioner,
Police Commissioner Office,
Pune - 411 001.

- 5. Ministry of Transport**
Through RTO
Sangam Bridge, Pune.
- 6. Maharashtra State Power Generation Company Limited (MAHAGENCO) through**
It's Managing Director
Hongkong Bank Building, M.G. Road, Fort, Mumbai – 400 001.
- 7. Secretary, Department of Urban Development**
Room No.423 (Main), Nagar Vikas Vibhag, Mantralaya,
Mumbai – 400 032.
- 8. Secretary, Ministry of Environment and Forests,**
Mantralaya, Mumbai – 400 032.
- 9. Secretary, Home Department**
9th Floor, New Administrative Building, Opposite Mantralaya,
Mumbai – 400 032.
- 10. Director General of Police**
Maharashtra State Police Headquarters,
Old Council Hall, Shaeed Bhagat Singh Marg, Mumbai 400 001
- 11. District Collector**
District Collector Office, Yavatmal.
- 12. District Collector**
District Collector Office, Kolhapur.
- 13. District Collector**
District Collector Office,
Sindhudurg.
- 14. District Collector**
District Collector Office,
State Bank Chowk, Buldhana.
- 15. District Collector**
District Collector Office, Jalgaon.
- 16. District Collector**
District Collector Office, Nagpur.

17. Municipal Commissioner

Kolhapur Municipal Corporation
Main Building, Shivaji Chowk,
C-Ward, Kolhapur – 416 002.

18. Chief Executive Officer,

Yawatmal Municipal Council
Azad Maidan, Yawatmal.

19. Chief Executive Officer,

Sindhudurg Municipal Council
Oros, Dist. Sindhudurg.

20. Chief Executive Officer,

Buldhana Municipal Council
Zilla Parishad Buldhana.

21. Chief Executive Officer,

Jalgaon Municipal Council
D-3, Golani Market, 3rd Floor,
Jalgaon.

22. Municipal Commissioner

Nagpur Municipal Corporation
Mahanagar Palika Marg, Civil Lines,
Nagpur, Maharashtra – 440 001.

.....Respondents

Counsel for Applicant:

Mr. Asim Sarode, Advocate.

Counsel for Respondent:

Mr. P.S. Suryavanshi, Advocate for Respondent No.1

Mrs. Supriya Dangare, Advocate for Respondent No.2

Mr. D.D. Shinde, Advocate for Respondent No.3

Date: 3rd July, 2017

JUDGMENT/ORDER

1. The Applicant, a Cooperative Housing Society, has approached this Tribunal with a substantial issue relating to environmental pollution and environmental degradation caused by various marriage halls and Mangal Karyalayas located on 100 ft DP road starting

from Mhatre Bridge to Rajaram bridge in Pune and invoked provisions of Section 14 and 15 of the National Green Tribunal Act 2010 for the relief therefrom. The Applicant alleges that the environmental degradation is caused due to the encroachment on the designated green belt area, being within the blue flood line marked along the river Mutha by such marriage halls. The Applicant has also generally raised the issue of similar pollution and environmental degradation caused by marriage halls/lawns located in the state of Maharashtra.

2. The Applicant submits that their society is situated at 100 ft DP Road stretching from Mhatre Bridge to Rajaram Bridge. According to Applicant, there are more than 4 marriage halls along the DP road, which have been granted permissions and licenses by the Respondent Pune Municipal Corporation. The Applicant submits that the activities of marriage and other functions/celebrations conducted regularly at these halls, particularly during evenings, generates significant environmental pollution - air and noise pollution from various sources including use of DJ systems, use of fire crackers, traffic congestion and blowing of horns etc. in its precincts as well as at the places and also outside the marriage halls where the procession moves. The Applicant further submits that these marriage halls are commercially exploited/ used for large scale marriage

functions for entertaining large numbers of guest with fun and food and the municipal authorities and also other regulatory authorities including the Maharashtra Pollution Control Board and Police are required to ensure that such commercial activities do not cause any nuisance in terms of environmental pollution in the surrounding residential area. The Applicant submits that they have filed regular complaints with the authorities regarding the pollution and environmental degradation as well as violation of green belt and blue line restrictions. However, there is no respite to them as the authorities have conveniently not acted on their complaints. Similar objections have also been raised for various marriage halls situated across the state. The Applicant have therefore prayed for the following reliefs:

- a. Report be called from Respondent No. 1- P. M. C. regarding all the Marriage Halls, Mangal Karyalaya, Marriage Lawns in Pune City, their names and terms and conditions put on them from running the said Marriage Halls, Mangal Karyalaya and Marriage Lawns.
- b. The Respondent No. 2- MPCB be asked to submit Environment Status Report (ESR) to the Hon'ble Tribunal in respect related to Marriage Halls, Mangal Karyalaya and Marriage Lawns situated on the 100 ft. D. P. Road from Mhatre Bridge to Rajaram Bridge in Pune City.

- c. The Respondent No. 1 may kindly be penalised under the provisions mentioned under S. 16 of The Environment (Protection) Act, 1986.
- d. Considering the change in situation and full-fledged locality in the DP road area near Mhatre Bridge it is high time to stop the 'phataka selling' (cracker selling) on the DP road and hence directions may be given to shift this business to some other place.
- e. The Respondent Nos. 1,2 and 4 may kindly be imposed with fine of Rs. 2,00,000/- each for constantly neglecting the environmental issues and complaints filed by the Applicant. Such fine amount may kindly be directed to be used for any environment preservation cause and awareness programs to be organised with various social organizations.
- f. Directions may kindly be issued to the Respondent no. 4 and 6 to ban the use High Powered Beam Search Lights by civilians and during the marriage ceremonies.
- g. Respondent No. 6 may kindly be directed to make it compulsory for every marriage hall and Lawns to have unit of solar energy generation which will save the electricity consumption and lessen the burden on environment, Respondent no. 6 may kindly be directed to frame such Rule or issue some Notification.
- h. Directions may kindly be given to the Respondent No. 2 to submit detailed report regarding the DP Road marriage halls in particular and regarding noise monitoring system being adopted by the Respondent No.2 in relation to all such Marriage Lawns/ Halls at various places in Maharashtra.

- i. Direction may kindly be given to the Respondent No. 2 and Respondent no. 4 to submit record related to Maharashtra as to how many complaints they have received in the year 2011 to 2015 January regarding Noise and Air pollution due to various Marriage Halls and Mangal Karyalaya, Lawns and what is the action taken report.
- j. The Respondent No. 7 may kindly be directed to submit its report as to under what conditions development of Open Marriage Halls in the Urban Areas is being permitted.
- k. Respondent Nos. 8 to 10 may kindly be directed to submit District Wise Report as to what legal actions have been taken against Open Marriage Lawns and Mangal Karyalayas where constant noise pollution is occurring.
- l. Respondent Nos. 11 to 22 may kindly be submitted their reply-affidavit on the contentions raised by many Advocates residing in different cities through their affidavits regarding open Marriage lawns'/ Mangal Karyalaya's noise pollution issue.

3. In the present application, the Pune Municipal Corporation (PMC) which is a planning authority of the city of the Pune is Respondent No. 1 whereas Maharashtra Pollution Control Board is Respondent No. 2. The Chief Engineer, Irrigation Department, Government of Maharashtra is Respondent No. 3 and Director General of Police, Maharashtra is Respondent No. 4. The Respondent No.5 to 22 are other local bodies in the state of Maharashtra.

4. The Respondent No. 1, Pune Municipal Corporation filed an appearance and have filed 4 separate affidavits related to individual departments of the PMC. We deprecate such compartmentalized approach of the PMC departments to deal with the environment in an effort to isolate the inextricable issues therein. The first affidavit of Shri Prashant Waghmare City Engineer of the PMC-Respondent Corporation PMC is filed on 28th May, 2015 reveals that the marriage halls are located on the DP road in green zone governed by Rule No. M-7.1 of the Development Control Rules 1987 prescribing the permissible use of green zone. It further reveals that the area between Mhatre Bridge and Rajaram Bridge was inspected by the officials of the Corporation and unauthorized construction was found in Krishna Sundar lawn, Krishna Sundar Garden, Sidhi Garden, Shubharambh lawn and Gharkul lawn. He further submits that the Corporation has issued them notices under the relevant provisions of the Town Planning and Corporation Acts and these notices have subsequently been challenged by the respective marriage halls before the Court of Civil Judge/Division wherein status quo orders have been passed by the Learned Judge.

5. Second affidavit of Respondent No. 1 i.e. PMC is of Shri Mangesh Dighe Environmental Officer of the Corporation filed on 28th May, 2015. He submits that the

area between Mhatre bridge and Rajaram bridge does not come within the silence zone. The third affidavit of Shri Satish Panditrao Kulkarni Deputy Commissioner, Estate Management Department of the Corporation filed on 28th May, 2015 discloses that the fire crackers shops and stalls put up on the DP road get permission to operate such shops only during Diwali period on a temporary basis and the stall holders are required to remove their stalls immediately after Diwali festival. He further submits that in case any nearby residents has any objection to such fire crackers shops, they can file their objections with the Corporation which will be considered according to law. The fourth affidavit of Dr. Somnath Tarachand Pardeshi Medical Officer, Health Department of the Corporation filed on 28th May, 2015 reveals that temporary permission was given to the Gharkul lawn for the year 2005 and based on complaints received, such permission has since been cancelled. He further averred that all the marriage halls situated on the eastern side of the DP road are in the green zone and are operating in the violation of the restrictions imposed on the activities permissible in the green zone.

6. In short, the Pune Municipal Corporation submits that all these Mangal Karyalas and marriage halls are source of noise pollution and are violating the green zone regulations of the development plan of the city

and the Corporation has taken due cognizance of such violation and issued statutory notices against these illegal and unauthorized activities; however, the owners of marriage halls and lawns have filed appeals under the Town Planning Regulation against such orders in the Civil Court and obtained stay/status quo orders therein thereby allowing these Mangal Karyalas to continue their activities. However, the Corporation has not filed any documents related to the notices issued to such activities and only submits that the notices are issued for violations of town planning regulations.

7. Respondent No. 2 MPCB, has filed affidavit of Shri Jagannath Shankar Salunkhe, Sub-Regional Officer of the Board on 7th November, 2015. He averred that as per the CPCB directions issued under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, marriage hall is not covered as under the categorization of industry/activity requiring consent to establish/operate from the Board. It is further submitted that the MPCB has a very limited role in regulating the noise in the city area, and the police and municipal authorities are required to enforce the Noise Rules in view of the circular of Government of Maharashtra dated 21st April, 2009. He further submits that the role of the MPCB is limited to monitor the ambient noise levels in case of specific request from the authorities and communicate

the results to them as per the above government resolution.

8. We, however, deprecated such a stand of MPCB and directed it to reconsider the issue afresh by taking holistic view of the matter strictly as per the provisions of Water Act, while noting that the CPCB directions are only issued for uniform categorization of various industries and activities by various Boards and in no way, can be construed as the one designed to offer exhaustive list of industries/activities covered under Water Act thereby signifying that other activities do not require consent from the Board. The provisions of Water Act are absolutely clear and Board is required to strictly comply with the same.

9. Subsequently, MPCB has informed that they have reconsidered the matter at the highest level and has now framed guidelines for the marriage halls and the club house activities in pursuance to the direction issued by this Tribunal in **Application No. 53/2015 filed by Mr. Vivek Sheshrao Dhakne Vs. Maharashtra Tourism Development Corporation & Ors.** These guidelines have been issued on 24th November, 2016. According to this circular, the statutory Board of MPCB in its 166th meeting has resolved to bring the marriage halls/ and club house activities within the consent regime. Further elaborate guidelines as regards the environmental

protection i.e. Water pollution control, noise pollution control, solid waste and air pollution control have been prescribed in the guidelines. The Board has also conducted noise monitoring in the vicinity of such marriage halls and the reports indicate that the ambient noise levels are exceeding the standards.

10. Respondent No. 3 filed an affidavit of the Executive Engineer, Khadakwasla Irrigation Division and submitted that they have demarcated the flood lines of River Mutha within the limits of Pune Municipal Corporation as per the request of Pune Municipal Corporation. Such demarcation has been submitted to the Pune Municipal Corporation and District Administration vide letter dated 05.03.2011. He further submits that as per the provisions contemplated under Section No. 20 of the Maharashtra Land Revenue Code, 1966, the rivers, streams, nallas, lakes, tanks etc are the properties of Government of Maharashtra and further, as per the provisions of the said Act, it shall be lawful for the Collector to deal with these lands. He further submits that in case of any violation or encroachment of such lands the authorities empowered under the Maharashtra Land Revenue Code, 1966 are empowered to take legal action. However, this affidavit conspicuously does not reveal or describe the location of flood lines along the DP

Road or the location of such marriage halls and lawns with respect to such flood lines.

11. The Respondent No. 4 filed an affidavit of Shri. Sarang Dadaram Awad Deputy Commissioner of Police on 5th November, 2015 and submits that the Kothrud Traffic Division from time to time filed several FIRs under Section 293, 286, 290 and 291 of IPC against the owners of the marriage halls and lawns situated in disputed area. He further submits that the traffic branch has taken initiatives for streamlining the traffic flow on this road, particularly by erecting iron railing divider, separate pedestrian walk way, line marking etc. for which necessary communication has been sent to the Municipal Corporation. He further submits that regular actions are being taken for the unauthorized parking in the said area. He further submits that the traffic branch will act immediately on the complaints received from the citizens and take timely action in this regard.

12. Considering the pleadings and also the documents on record, following issues are required to be adjudicated by the Tribunal for effective disposal of this case:

- I. *Whether the marriage halls/lawns situated at DP Road are violating the green zone regulations and blue line restrictions thereby adversely affecting the environment? If yes, then what directions can be issued?*

II. What precautionary measures are required to be taken by the Marriage Halls/lawns for avoiding the pollution due to their activities and how such measures can be enforced by the authorities?

13. The Applicant has alleged that the Marriage Halls/ lawns have been constructed in the Green Zone and also within the blue line of River Mutha. He has also alleged that these Marriage Halls/ lawns are situated in No Development Zone without any permission from the PMC. Respondent-1, PMC has filed an affidavit dated 28th May, 2015 and submitted that they have taken suitable action against the unauthorised construction at some of the lawns located at DP Road, Pune. However, the Marriage Halls/ lawns owners have challenged these directions by filing Civil Suits before the Civil Judge Junior Division (PMC) Court, Pune and the learned Civil Judge has passed status quo order/ stay order against the PMC. The Irrigation Department, Government of Maharashtra has filed a cryptic affidavit and submitted that they have submitted the relevant maps of Blue Line to the PMC and PMC District Collector is required to take necessary action as per the law. However, they have not given any details as to whether the Marriage Halls/ lawns situate at DP Road are within the Blue Line or not.

14. We have perused the affidavits and contentions of the Respondents. The Tribunal has already dealt with

the issue of construction within the Blue Line in **Application No.01/2013 [Sarang Yadwadkar & Ors Vs. Mrs. Anjali Dinkar Datar & Ors]** and **Application No. 2/2013 [Sarang Yadwadkar & Ors. Vs. The Commissioner & Ors.]** and the relevant paras of the judgment are important to note which are as under:

37. *These, amongst others, are a few disadvantages of the project in question besides there being logistic deficiencies like lack of permission or grant of improper permission. The need for the project is sought to be justified on the ground of larger public interest i.e. providing an alternative route to the commuters as well as to reduce vehicular pollution. It is expected to solve public transportation problem of about 5 lakh citizens who rely on the Sinhagad Road, as their main connectivity by the arterial road to the city. It is likely to reduce travel time as well as pollution level. On the contrary, the applicant's main contention is that besides causing degradation of the environment, the intention of Respondent No.1 is to help the property grabbers unauthorisedly by reclaiming the land, falling even within the red/blue line and to give them undue advantage. In fact, the real intention of the respondent is to construct the road by compacting and earth filling and to facilitate selected private land owners to reclaim the 41 river bed up to the road by converting no development zone inside the flood plain into residential zone. Of course, this allegation has been refuted by Respondent No.1. It is also argued on behalf of Respondent No.1 that raising construction on elevated pillars would prove much more expensive than its construction by compacting and earth filling. This argument does not impress us. If the Corporation-authorities have taken a decision to take up the project in public interest, then it must also bear its cost and higher cost, if necessary and also unavoidable in the larger environmental interest. The authorities cannot be permitted to cause irreversible damage to the environment and ecology of the area and even expose the inhabitants of the vicinity to undue flood risks on the ground that the project is being taken up in public interest merely for providing an*

alternative road and for reducing the vehicular pollution. Firstly, Respondent No.1 has not placed any scientific data or analysis on record before us in support of its contention, even for the sake of arguments, that there would be reduction in environmental pollution and great convenience will accrue to the public by reduction in the travel time. Applying the principle of proportionality, even if an alternative route is provided, still the balance would tilt in favour of environment and we would still require Respondent No.1 to carry out the project subject to such conditions which would strive equitable balance between the development on the one hand and the environment on the other. If Respondent No.1 is of the firm view, and particularly in view of the NOC dated 15th April, 2013 having been issued by 42 Irrigation Department, to carry out the project, then it has to be subject to such stringent conditions as would protect the environment and ecology as well as greater public interest by preventing floods etc. Keeping in view the above rival contentions and the facts of the present case, normally, we would have accepted the petition and prohibited carrying out the project any further with the specific demolition of the part of the road. The road can be raised by elevated pillars in the area that will fall within the blue line or inside the blue line. The construction of elevated pillars at that stage would neither obstruct the flow of the river nor narrow the flood plain. Furthermore, it will also help the storm or drain water to freely join the river during larger part of the area.

38. However, keeping in mind the public interest, that by imposition of certain conditions, environmental and ecological interests can be safeguarded, we would permit Respondent No.1 to complete the project. Accordingly, we impose the following conditions subject to which the project could continue:

(a) The interim order dated 4th January, 2013 and subsequent interim orders shall stand vacated and Respondent No.1 would be permitted to carry out and complete the project of building only 24 metre wide road from Vitthalwadi to NH-4 bypass as shown in Annexure R-2/1 strictly and subject to the conditions stated hereinafter.

(b) Respondent No.1 shall make every effort to realign the road to bring it as far as possible closer to and beyond the blue line, right from chainage of 0+400 to 1+750 of Exh.

Annexure 2/1. It shall ensure to extend the least part of the project in the river bed/blue line.

(c) *The road/project shall be constructed on elevated pillars alone in the area that falls within the blue line.*

(d) *We direct Respondent No.1 to remove the debris dumped at the present site and shift the same to the red line by following 1 in 25 years rule.*

(e) *A massive plantation should be undertaken on both sides of the river, also in the no-development zone by Respondent No.1 as well as the State Government of Maharashtra. Adequate protective measures should be undertaken to prevent flooding and submerging of the residential area along the proposed road.*

(f) *The conditions imposed by the Chief Engineer, Irrigation Department, vide his NOC dated 15th April, 2013 shall mutatis mutandis be part of the present directions. The same shall be read in aid and not in derogation to the conditions stated in this order.*

(g) *As already noticed and highlighted during the course of the hearing, a large number of structures have come up at and even inside the blue line of the river Mutha. Respondent No.1 itself has issued notice to some of such structures for demolition. Thus, in the peculiar facts and circumstances of 44 the case, we further direct that Respondents No.1, 3 and 4 shall take appropriate steps against unauthorised constructions, if any, raised on and inside the blue line and pass order of demolition or such other order as is permissible in accordance with law. We also direct the said authorities to ensure that no encroachment is permitted and no construction in future is permitted on and inside the blue line of the river Mutha.*

The Tribunal has ordered to remove the road development works within the blue line area. Incidentally the area covered in the said judgment is proximate to the area in question in this petition also. And therefore the findings of the Tribunal in these cases will apply mutatis

mutandi in the present case also. We also take a judicial note that the substantive appeal against this judgment has been dismissed by Apex Court (**Civil Appeal Diary No(s). 3445/2015: The Commissioner PMC Vrs. Sarang Yadwadkar**) and therefore, the judgments in these cases have attained finality. These matters are already in execution proceedings before the Tribunal in Execution Application No.18/2017 and Execution Application No.19/2017.

15. The Tribunal has dealt with Green Belt and its relevance with environmental base line and the relevant Judgments are referred to herein below:

- (i) **Gaur Green City Residents Welfare Association, Through the Secretary Shri Jigyasu Pant Vs. The State of U.P. Through the Secretary, Ministry of Urban Development and Ors. [Original Application No.33/2012, Decided on 21.08.2013].**

An Application filed under Section 14 of the National Green Tribunal Act, 2010. The Applicant challenges installation of a 400 KV Gas Insulated Power Sub-station (for short GIS) over Green Belt running parallel of NH-24. The Tribunal dismissed the application but with the direction that project proponent shall undertake work of landscaping, plantation, afforestation and beautification of the open spaces available beyond the GIS Power Sub-station and boundary wall of the Gaur Green City. The Project Proponent shall also simultaneously commence landscaping and beautification work as per plan of Horticulture Department and shall not make the proposed Power Sub-station operational without completion of such work.

(ii) **Sunil Kumar Chugh and Ors. Vs. Secretary, Environment Department, Government of Maharashtra & Ors. [Appeal No.66/2014, Decided on 03.09.2015].** The Hon'ble Principal Bench considered the importance of open recreation spaces for ensuring clean and healthy environment and need for making right use of land for right purpose. Any illegal and unauthorized diversion of space reserved for Garden or recreation ground under the sanctioned layout to any other use, therefore, cannot be countenanced with and such tampering with the layout is bound to have spaces, recreational grounds and adequate parking facilities in buildings had an important bearing on the right to life of people.

(iii) **Nanik Rupani and Ors. Vs. Secretary, MoEF and Ors. [Application No.134/2015, Decided on 28.02.2017].** The Application has been moved for restitution of area devastated by hill-cutting or excavation and tree felling, sometime around December, 2014 to make illegal, unauthorized road connecting Plot No.47 to 14 in the area popularly known as 'Vikas Valley' and for relief of injunction restraining such acts at the site. The Tribunal referring to the landmark Judgment of NGT Principal Bench in **Sunil Kumar Chugh** case directed that Respondents shall not carry out hill cutting & felling of trees in the project area. The Tribunal also directed the respondents to restore the said area to its original position.

16. Undoubtedly, the Corporation and Irrigation Department are unanimous on the fact that these marriage halls/ lawns are located within the Blue Line area, either fully or partially. It is, therefore, incumbent upon these departments to ensure that these unauthorized and illegal structures within the blue line area are immediately removed to avoid any blockage or

restriction of the river water flow. Issue No. I is accordingly answered in Affirmative.

17. This particular application was initially filed mainly challenging the noise pollution caused due to the activities of marriage halls/lawns situate at DP Road, Pune. It was also alleged that these marriage halls and lawns are violating the green zone regulations and blue line restrictions thereby adversely affecting the environment. The Respondent No.1 – PMC and Respondent No.2 – MPCB have admitted that the activities of marriage halls and Mangal Karyalayas cause noise pollution if the activities remain uncontrolled and unabated. It is also submitted that the activities like serving food to the large numbers of assembled guests also generate significant solid waste and trade effluent which are required to be properly treated before its disposal of for avoiding environmental pollution. It is to be noted that initially MPCB's stand was that these activities are not covered under the Water (Prevention and Control of Pollution) Act, 1974 and therefore, they are not under any obligation to control the pollution at marriage halls/lawns. After detailed discussion before us, the MPCB had taken a review of its stand and realized the need to cover the marriage halls/lawns under the consent regime in a bid to perform its functions as per the provisions of the Water (Prevention and Control of

Pollution) Act, 1974 in its 166th Meeting held on 20th August, 2016 for the prevention of environmental pollution; and has approved and issued elaborate guidelines for the Marriage Halls/Lawns as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. The decision of the Board is reproduced below:

“Resolution:-

Board has considered the above proposal and principally agreed the committee recommendations for bringing Marriage Halls/lawns/club houses in consent regime of the Board. Further Board has resolved that:-

1. The Marriage halls/ lawns/ Club Houses as defined in the Group A located in **Municipal Corporation or “A” class Municipal Council or MMRDA or PMRDA or CIDCO or NIT Nagpur or Cantonment Boards within Corporation/ A Class Municipal Council or Cantonment Boards surrounding (within 5 kms radius from the boundary) Corporation or A Class Municipal Council** shall be brought under the purview of consent management regime of the Board and they shall apply to the Board for obtaining consent under Water and Air Act.

(In order to avoid ambiguity in calculation of gathering capacity of a person, Standards Floor Space Index (FSI) as defined by Public Works Department (PWD) and Building Code shall be used)

2. (a) The Marriage halls/ lawns/ Club Houses as defined in the Group A located in **B, C and D and Zilla Parishad, Nagar Panchayat, shall follow guidelines, separately prepared by Maharashtra Pollution Control Board which will be enforced through concerned planning authorities.**

(b) The Marriage halls/ lawns/ Club Houses as defined in the Group B located in **Municipal Corporation or “A” class Municipal Council or MMRDA or PMRDA or CIDCO or NIT Nagpur or Cantonment Boards within Corporation/ A Class Municipal Council or Cantonment Boards surrounding (within 5 kms radius from the boundary) Corporation or A Class Municipal Council including Municipal Council B, C and D and Zilla Parishad, Nagar Panchayat, shall follow guidelines, separately prepared by Maharashtra Pollution Control Board which will be enforced through concerned planning authorities.**

Member Secretary is authorised to take further necessary action.”

18. With such a decision taken by the Board, one of the main grievance of the Applicant that these marriage halls and lawns are not regulated, is adequately addressed. The Board with its revised stand is now bound to enforce the provisions of Water and Air Act for such marriage halls/ lawns and regulate the activities of these marriage halls/ lawns so as to ensure that they are carried out in an environmentally benign manner.

19. Respondent No.1 – PMC has also considered this aspect and submitted that the people staying around such marriage halls/ lawns are the victims of noise pollution due to loud music played in the marriage halls/ lawns as well as marriage processions. At the same time, the Corporation has submitted that they have minimum trained manpower in the field of environment and therefore, Police Authorities and MPCB shall be entrusted

with the responsibility to deal with the noise related complaints. Furthermore, PMC has also suggested that the marriage hall/ lawn owners should be held responsible and accountable for pollution and violation of the environmental norms as these halls/ lawns are carrying out commercial activities and while conducting such commercial activities, they should not be allowed to cause pollution or nuisance adversely affecting the nearby residents. PMC has also suggested that bursting of fire-crackers and use of vehicles mounted with high pitched sound generating DJ systems should be completely banned in and around marriage halls/ lawns. PMC has also recommended that public awareness campaign needs to be undertaken to avoid noisy marriage functions.

20. Marriages have become increasingly boisterous affair wherein the individuals often tends to forget their obligations towards the society. Marriage halls/ lawns thus become epi-centre of environmental pollution in terms of air, water and noise pollution. Being commercial ventures these marriage halls/ lawns are often used for hosting “no bar” affairs thereby exposing the citizens to the adverse impact of environmental pollution and are unwilling to risk their commercial interests at the cost of ‘displeasure’ to the customers. Surveys of the respective marriage halls/lawns carried out by the MPCB to get

their environmental status have revealed substantial contribution of environmental pollution due to their functioning in terms of increased noise levels, sewage and MSW generation vide affidavit dated 10th December, 2016. Immediate and noticeable effect of this environmental pollution is felt with the increased noise levels. Noise pollution is silent killer. Generally, people of tender and old age are more susceptible to the adverse effects of the noise pollution. With increasing urbanization the adverse impacts of the environmental pollution get more pronounced and regularization of the activities contributing to such environmental pollution becomes imperative.

21. The Hon'ble High Court of Judicature at Bombay, when confronted with similar issues of public importance namely, obstruction of vehicular and pedestrian traffic causing enormous inconvenience to the citizens and increased noise levels in Public Interest Litigations (PILs) – ***PIL No.173/2010 [Dr. Mahesh Vijay Bedekar Vs. The State of Maharashtra & Ors]***, ***PIL No. 161/2015 [Ms. Taramati Sadanand Pathak Vs. Commissioner of Police, Pune]***, ***Cri. PIL No.20/2015 [Santosh Shrikrishna Pachalag Vs. The State of Maharashtra & Ors.]***, ***Cr. PIL No.23/2015 [Shailendra Dixit s/o Prabhakar Dixit Vs. The State of Maharashtra & Ors]***, ***PIL No.74/2007 [Madhav Sakharam Rane & 2***

Ors Vs. State of Maharashtra & Ors], PIL No.83/2010 [Society for Fast Justice and Anr. Vs. The State of Maharashtra & Ors.], Writ Petition No.2053/2003 [Dr. Yeshwant Trimbak Oke & Ors. Vs. Union of India & Ors.], PIL No.85/2007 [Awaaz Foundation and Anr. Vs. The State of Maharashtra thru The Principal Secretary & 5 Ors], dealt comprehensively with the effect of noise pollution and implementation of Noise Pollution Rules and passed several directions mandating the State Government, its limbs and Maharashtra Pollution Control Board as well as the Municipal Corporations to discharge their obligations under the Noise Pollution Rules, 2000 and to ensure meaningful implementation of the said Rules. Strict and faithful compliance of these directions is, therefore, necessary to give relief to the citizens affected with environmental pollution, particularly of the kind in the present case.

22. The authorities/bodies before us – Corporations, Councils, Collector Sub-District, Maharashtra Pollution Control Board, Police and Transport Department, though after debate before us, have conceded to the proposition that they have definite role to play in the prevention and control of environmental pollution caused by marriage halls/lawns; and therefore, are under obligation to enforce the environmental regulations jointly and severally at the marriage halls/ lawns. G.R. No.Sound

Pollution-2009/Pr.Kr.95/1 dated 21st April, 2009 of Government of Maharashtra has voiced the concern of the State regarding increasing noise pollution and sources of environmental pollution and exhorted its different organs to implement Noise Pollution Rules, 2000 effectively. This G.R. thus emphasis the need for concerted actions by all its limbs for preventing and controlling environmental pollution.

23. We have noted that PMC has already notified Silence Zones in the city of Pune and prepared list of the Silence Zones and publicly listed Silence Zones in PMC area which is on its website for public information. Now it is necessary for all other urban local bodies in the State to ensure that the Silence Zones are properly notified and demarcated on the city maps and then placed in the public domain for public information. Noise Rules, 2000 requires such exercise of identifying the Silence Zones to be carried out within short timeframe.

24. The Applicant pointed out that vehicles fitted with High Decibel Sound Amplifying Systems are illegally and unauthorizedly used in marriage procession. Generally, deafening high pitch sound has direct effect on human health and the authorities often turn deaf ear to the complaints made by citizens to that regard. Not only in such marriage processions but also in religious and

political processions we find illegal and unauthorized use of such vehicles fitted with such high decibel sound amplifying system to the detriment of the environment, consequently the human health. All these need to be controlled.

25. We, therefore, feel it necessary that such use of vehicles mounted with high pitch sound amplifying system is required to be banned for curbing the noise pollution. It is also important to note that during the processions, these sound systems mounted on vehicles are also used when the procession passes through the various Silence Zones thereby unabashedly violating the provisions of the Noise Rules and causing continuous nuisance to the population. And, therefore, the Issue No.II is answered in affirmative and the suitable directions are passed as under.

26. In view of the aforesaid discussions and on application of the principles of sustainable development and precautionary principles, we are inclined to issue the following directions:

- a) All the directions issued by the Hon'ble High Court of Judicature at Bombay in **PIL Nos. namely 173/2010 and Ors. [Dr. Mahesh Vijay Bedekar Vs. State of Maharashtra and Others]** shall be strictly complied with by all the Respondents.

- b) The Maharashtra Pollution Control Board is directed to regulate the activities at marriage halls/ lawns as per the guidelines framed by them in performance of its functions under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 within a period of next 02 months. In case of non-compliance, the Board shall take suitable legal action including that of closure of non-complying marriage halls/ lawns.
- c) The marriage halls/ lawns shall be directed by respective urban local bodies/ authorities to segregate their solid waste and treat and dispose of the same through composting or bio-methenation within their premises and handover recyclable material either to the authorized waste pickers or the authorized recyclers as per the Solid Waste Management Rules, 2016. In case of unauthorized haphazard dumping of the solid waste by the marriage Halls/ lawns, they will be liable to pay Rs.50,000/- as environmental cost per incident to respective urban local body and the same shall be recovered from them by respective urban local body.
- d) There shall not be any use of loud speakers and bursting of fire crackers at the marriage halls/ lawns without specific written permission from the competent authority contemplated by Noise Rules, 2000 or any other law for time being in force in that regard.
- e) Owner/s of the marriage halls/ lawns shall be responsible for compliance of all the directions passed herein and shall be liable for legal action including prosecution by competent authority in case of non-compliance.

- f) Use of vehicles mounted with high pitch sound amplifying system without valid permission from the competent authority is strictly prohibited.
- g) The Transport Commissioner and the concerned Police Authority shall remain responsible to enforce these directions; and they shall immediately confiscate and seize such unauthorized vehicle/s mounted with high decibel sound amplifying system and shall not release the same without express permission from the Tribunal. The owner of such vehicle shall be liable to pay environmental compensation of Rs.50,000/- for every such incident of use apart from any further cost as decided by the Tribunal.
- h) The Transport and Police Authority shall ensure that the sound systems are not used in notified Silence Zones.
- i) The Transport Department and MPCB shall give wide publicity to the above directions. The Transport Department shall also publish separate e-mail address and Whatsapp number within 2 weeks to enable the general public to send details of unauthorised vehicles mounted with high decibel sound amplifying systems for necessary action.
- j) The Respondent No.1 - PMC and Respondent-3 Chief Engineer, Irrigation Department are directed to jointly identify the unauthorized construction and/or dumping carried out by the marriage halls/lawns, within the blue line flood zone of River Mutha along the DP Road Pune stretching from Mhatre Bridge to Rajaram Bridge, within 02 weeks from today and carry out demolition/removal of such construction/dumping/filling for ecological

restoration of riverine zone of River Mutha within 04 weeks thereafter. Commissioner PMC and Chief Engineer Irrigation Department shall file a compliance affidavit promptly after the compliance period. Collector, Pune and Commissioner of Police, Pune are directed to provide all necessary help to the PMC and Chief Engineer Irrigation Department for compliance of the above directions.

The Application No. 8 of 2015 accordingly stands disposed. No costs.

....., JM
(Justice U.D. Salvi)

.....,EM
(Dr. Ajay A. Deshpande)

Date :3rd July, 2017
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NGT