

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (Lodg)NO.507 OF 2017  
in  
WRIT PETITION (LODG) NO.2107 OF 2017

In the matter of :

Mr.Robin Jaisinghani.

...Applicant/Orig.Petitioner

Between

Mr.Robin Jaisinghani

...Petitioner.

vs.

- 1.Mumbai Metro Rail Corporation Ltd.
- 2.Sr.Inspector of Police in Charge of the  
Cuffe Parade Police Station.
- 3.The Commissioner of Police, Mumbai
- 4.State of Maharashtra.

...Respondents

AND

NOTICE OF MOTION (Lodg)NO.387 OF 2018  
IN  
WRIT PETITION (LODG) NO.2107 OF 2017

In the matter of:

L&amp;T-STEC JV Mumbai.

...Applicant/Intervener

In the matter between

Mr.Robin Jaisinghani

...Petitioner.

vs.

- 1.Mumbai Metro Rail Corporation Ltd.
- 2.Sr.Inspector of Police in Charge of the  
Cuffe Parade Police Station.
- 3.The Commissioner of Police, Mumbai
- 4.State of Maharashtra.

...Respondents

AND  
NOTICE OF MOTION NO.273 OF 2018  
IN  
WRIT PETITION (LODG) NO.2107 OF 2017

Mumbai Metro Rail Corporation Ltd. ...Applicant

In the matter between

Mr.Robin Jaisinghani ...Petitioner.

vs.

1.Mumbai Metro Rail Corporation Ltd.

2.Sr.Inspector of Police in Charge of the  
Cuffe Parade Police Station.

3.The Commissioner of Police, Mumbai

4.State of Maharashtra. ...Respondents

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Mr.Robin Jaisinghani, Petitioner-in-Person present.

Ms.P.H.Kantharia, Government Pleader with Ms.Deepali Patankar,  
Assistant to GP, for the State-Respondent nos.2 to 4 in NMWl 507/17 &  
NMW 387/18

Mr.Ashutosh Kumbhakoni, Advocate General with Mr.Akshay P.Shinde,  
for Respondent No.1-MMRCL.

Ms.Sharmila Deshmukh with Ms.Jaya Bagve, for Respondent No.6.

Mr.S.U.Kamdar, Senior Advocate with Mr.Varun Shankar, Mr.Purav Shah  
I/b. Cyril Amarchand Mangaldas, for Respondent no.5.

Mr.Zal Andhyarujina (Amicus Curaie)with Mr.Kunal Dwarkadas & Shrey  
Sancheti.

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**CORAM:**     **NARESH H.PATIL, ACTING CJ &  
                  G.S.KULKARNI, J.**

**Reserved on :**     **20<sup>th</sup> August, 2018**  
**Pronounced on :**     **24<sup>th</sup> August 2018**  
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**P.C.:-**

1.           The petitioner who is residing at Cuffe Parade area in Mumbai has filed this petition against respondent no.1-Mumbai Metro Rail Corporation Ltd. (for short '**MMRCL**') and the State Government being aggrieved by the construction activities undertaken by MMRCL at Cuffe Parade area in execution of Metro Rail Project – III which is an underground metro railway being proposed from Colaba to SEEPZ (Andheri) (for short the '**Metro Project**'). The prayers in the petition are interalia to restrain respondent no.1 from carrying out construction activities during the night hours as the same would be in violation of the Noise Pollution Control Rules and for a further prayer that the respondents ensure that the noise caused by the construction of Metro project being carried out by the contractors does not exceed the levels prescribed by the Noise Pollution Control Rules.

2. By an ad-interim order dated 11 August 2017 passed by this Court, the MMRCL was directed not to carry out any construction or ancillary to that, between 10 p.m. to 6 a.m. till the next date of hearing. The writ petition was adjourned for two weeks. This order is continued till date. It would be appropriate to note the order dated 11 August 2017.

“1. Heard the applicant appearing in person.

2. Pending consideration of the application on merits, since the opposite parties have not yet filed their reply to the notice of motion, we direct the respondent-Mumbai Metro Rail Corporation Limited not to carry on any construction or ancillary to that between 10.00 p.m. to 6.00 a.m. till the next date of hearing.

3 List the matter after two weeks.”

3. Thus for the last one year the work of construction of the Cuffe Parade Metro Rail Station and other ancillary work was undertaken by the MMRCL and its contractors from 6 a.m. upto 10 p.m. The project work has substantially progressed and now it is at the stage where Tunnel Boring Machine (**TBM**) is being installed and would be required to be made operational. The case of MMRCL is that the TBM which would function deep below the ground level, is required to function continuously for twenty four hours. During the operation of the TBM, the muck which

would be generated by the boring, would be required to be collected and excavated by using vehicles (trucks/dumpers) and simultaneously in a continuous process a pre-cast RCC segment is required to be laid in the tunnel, as it progresses. It is in these circumstances the MMRCL has approached this Court by the present Notice of Motion (no.273 of 2018) making the following prayers :

(a) To appropriately modify, in the light of the contentions raised in the affidavit filed in support of this motion, the order dated 11<sup>th</sup> August,2017 passed by this Court Hon'ble Court, in the aforesaid Writ Petition;

(b) To allow the applicant to undertake the exercise of carrying out various activities relating to Tunnel Boring Machine (In short "TBM") such as lowering the TBM and its parts underground, at Cuffe Parade site, assembling it and thereafter carry out the work of excavation of tunnels;"

4. Mr.Ashok Bhasme, Deputy General Manager of MMRCL has filed an affidavit in support of the notice of motion. The relevant averments can be found in paragraphs 5, 15, 16 and 17. They read as under:-

5. I say that the entire exercise of lowering the TBM machine and its parts, assembling it, at Cuffe Parade area etc and excavation of tunnels is required to be done 24x7 and therefore the said fact has triggered the emergent situation to file the present notice of motion. I say that the said activity is required to be carried out like a conveyor belt activity on a production line manufacturing

factory, in an uninterrupted manner. I crave leave to refer to rely upon the mechanism thereof in greater details as and when required. The facts and circumstances giving rise to filing of the present Notice of Motion is stated to be as under .

... ..

15. As aforesaid the exercise of lowering and assembling the TBM underground and the exercise of excavation of tunnel will have to be carried out in a round the clock manner and the entire TBM is required to be made operational by lowering it at the earliest in order to save time, public money as also timely completion of the project in issue. Any delay caused in this regard is going to adversely and deeply affect the public exchequer.

16. The schedule of launching of TBM-1 is presently planned/proposed as below:

| Sr.No. | Activity                                                                   | Start          | End       |
|--------|----------------------------------------------------------------------------|----------------|-----------|
| 1.     | TBM Arrival at port                                                        | 6 Jun 18       | 6 Jun 18  |
| 2.     | Customs Clearance and transportation to Site                               | 7 Jun 18       | 8 Jun 18  |
| 3.     | Preparation of Launching Shaft and making it ready for receiving TBM parts | Under progress | 14 Jun 18 |
| 4.     | Placing of TBM shield at site, lowering of shields and TBM assembly        | 9 Jun 18       | 31 Jul 18 |
| 5.     | Welding works in the shaft                                                 | 15 Jul 18      | 25 Jul 18 |
| 6.     | Preparation of decking and sleepers for loco movement                      | 23 Jul 18      | 30 Jul 18 |
| 7.     | TBM site Acceptance Test and Commissioning                                 | 1 Aug 18       | 3 Aug 18  |
| 8.     | Starting of Ring Building (Tunneling work)                                 | 4 Aug 18       | 4 Aug 18  |

.... ..

17. I say that delay in the launching (lowering in shaft, assembly of TBM and start of operation) of the 1<sup>st</sup> TBM will cause.

a) delay in in construction of the stations work at Cuffe Parade, Vidhan Bhavan, Churchgate and Hutatma chowk and CSMT (from where the TBM is to be taken out).

b) Delay in launching of the 2nd TBM which is scheduled to be in Mumbai by 1<sup>st</sup> week of July 2018.

c) Overall the schedule of operation of Metro Line 3 will get delayed which will cost MMRCL about 4 crore per day.

In view of these and such other aspects of the matter, immediately on reopening of summer vacation, the applicant had filed an application before the Hon'ble Committee. However, since the parties could not arrive at an amicable solution despite efforts made by the Committee to amicably resolve the issues the applicant-MMRCL has filed instant application seeking urgent orders from this Hon'ble Court.”

5. There is also a notice of motion being Notice of Motion (Lodg) No.387 of 2018 which is filed by L&T-STECH JV Mumbai (for short “L&T”) who are the contractors appointed by MMRCL. L&T is seeking intervention in the matter. It is L&T's case that its interest would be seriously affected by any adverse order which would be passed by the Court. Mr.A.H.Khan, Task Force Leader of L&T-STECH JV Mumbai, filed an affidavit in support of the notice of motion contending that it is undertaking the contract work of the Metro Project, which is for “*design and construction of underground stations and associated tunnels for UGC-01 package of Metro Project and for design and construction of four underground stations at Cuffe Parade, Vidhan Bhavan, Churchgate and Hutatma Chowk and associated tunnels together with two tunnel sidings at Cuffe Parade.*” L&T has stated that it has commenced construction work for the first station on 18 July 2016 and since then is undertaking the construction of the said Metro Rail project. It is contended that the Metro

Rail Project is of great public importance for a metropolitan city like Mumbai which would be a fully underground rail based mass public rapid transport system. On behalf of L&T attention of the Court is drawn to the order dated 5 May 2017 passed by the Division Bench of this Court in ***“Nina Deepak Verma Vs. Tree Officer, Municipal Corporation of Greater Mumbai & Ors.”*** in which the Court on the importance of this public project had observed as under:-

“ There can be no dispute that the present public transport facilities in Mumbai city are grossly overcrowded, over-strained and inadequate. It is a matter of common knowledge that citizens are required to travel with immense pain and hardship and in conditions endangering their lives in the overcrowded existing suburban trains and buses. Desire for a smooth and comfortable travel in Mumbai had remained a distant dream.”

“ To decongest this pressure on the existing transport system and to increase mobility across the region, the State authorities had decided to undertake diverse Metro rail projects. The Metro Rail Line 3 project is stated to provide a high quality public transport system to the vast population..”

“ It is projected that about 13.87 lakhs passengers per day can be benefited by Metro Rail Line 3. It is stated to connect 30 educational institution, 6 central business district, 30 recreational centers and the domestic and international air terminals. It is expected to save about 60 minutes of the passengers average traveling time per day resulting in reduction of road traffic, fuel consumption and air pollution. There is a projection of estimated reduction of 6800 tons of Carbon Dioxide (CO<sub>2</sub>) in 2021 and 9907 tons by 2041. Further it is estimated that there would be reduction of Carbon Monoxide (CO) to the tune of 4327 tons in 2021 and increasing to 6304 tons to 2041. If these are the benefits of the Metro Rail 3, there can be no doubt that it would be of enormous benefit to the public on all counts.”

6. As regards the issue on noise pollution in paragraph 15 of the

affidavit in support of the notice of motion, L&T has stated that the ambient noise level i.e. noise level without any construction work being carried out is in itself exceeding the limits prescribed under the Noise Pollution (Control and Regulation) Rules, 2000 owing to the congestion and traffic in Mumbai. The averments in that regard are required to be noted which read thus:-

15. The Applicant/Intervener submits that the ambient noise level i.e. noise level without any construction work being carried out is in itself exceeding the statutory limits prescribed under the Noise Pollution (Control and Regulation) Rules 2000 owing to the congestion and traffic in Mumbai. The Applicant/Intervener craves leave to refer to and rely upon the Noise Pollution (Control and Regulation) Rules 2000 when required. As can be seen below at each of the aforesaid stations, the ambient noise levels (both day and night) without any construction activity are well beyond the statutory limits:

Noise Levels at various locations as per its scope of work measured in the 1<sup>st</sup> week of December 2016 are as under :

Cuffe Parade (Leq) 70dB Day, 61.3 dB Night –  
Measurement date-5<sup>th</sup> December 2016.

Vidhan Bhavan (Leq): 74.1 dB Day, 61.2 dB Night -  
Measurement date – 6<sup>th</sup> December 2016.

Churchgate (Leq) 70.5 dB Day, 62.9 dB Night –  
Measurement date – 6<sup>th</sup> December 2016.

Hutatma Chowk (Leq) 70.4 dB Day, 61.3 dB Night –  
Measurement date – 7<sup>th</sup> December 2016.

Further, in order to show that even during the ongoing construction activity, the noise levels remain similar to baseline/ ambient level, the applicant/Intervener has also provided noise level charts of various stations as below:

... ..

The above graphs are based on data from December 2016 to May 2018. However, subsequent to the order of the Hon'ble Court dated 11<sup>th</sup> August, 2017, no works were carried out during night time.

The same is testimony to the fact that the ambient noise is already exceeding the statutory norms irrespective of any construction work being carried out. As mentioned hereinabove, the Contract itself recognises that the work to be carried out is inherently noise producing, and to that extent, permits a 10 db deviation from the existing ambient pre-construction noise limits. It is submitted that accordingly, the relevant Contractor should not be penalised for the rise in noise levels owing to the construction activity as long as reasonable measures are put in place to mitigate the noise levels to the extent possible.”

7. L&T has contended that considering the importance of noise mitigation and other environmental concerns, noise mitigation measures which conform to international standards have already been installed and the same are listed at “Exhibit-E” to the affidavit in support. Thus on behalf L&T it is urged that L & T be permitted to undertake the project work using TBM even during night hours by vacating the order passed by this Court on 11 August 2017.

8. There is one more notice of motion being Notice of Motion(Lodg) No.507 of 2017 which was earlier filed by the petitioner seeking reliefs that the MMRCL be restrained from undertaking construction activity at Cuffe Parade causing noise levels exceeding the

levels prescribed in the Noise Pollution Control Rules and if it is found that the noise levels caused by the construction activity exceeds the maximum levels prescribed in the Noise Pollution Control Rules, then MMRCCL be restrained from undertaking any further construction, and for further relief that no construction be undertaken during night hours.

9. On an earlier occasion, this Court on 18<sup>th</sup> July 2018 (Abhay S.Oka and Riyaz I.Chagla, JJ) was pleased to pass an order permitting the Maharashtra Pollution Control Board to appoint CSIR-National Environmental Engineering Research Institute, Nagpur (**NEERI**) to take up the project of monitoring noise levels during the day time and night time.

The order reads thus:

“1. “Today we have started dictation dealing with the prayer for interim relief in the main Writ Petition.

2. The added Respondents the Maharashtra Pollution Control Board has placed on record a compilation of documents which is taken on record and marked as “**MI**” for identification. It records that the CSIR-National Environmental Engineering Research Institute, Nagpur (for short “**NEERI**”) has agreed to take up project proposal for monitoring noise levels as per CPCB protocol during day time and night time. The terms of reference signed by the Joint Director of the added Respondent – the Maharashtra Pollution Control Board are part of the compilation. As interim order is yet to be fully dictated and may not be available immediately, we direct Maharashtra Pollution Control Board to issue necessary work order to **NEERI** as per the terms of reference which are part of the compilation marked as **MI** for identification.

3. We make it clear that the Maharashtra Pollution Control Board and NEERI will be acting in terms of the order of this Court and therefore both the Authorities will be in a position of the Court Commissioner appointed by this Court to assist the court. Even if, a copy of this order is not available, we permit the Maharashtra Pollution Control Board to issue necessary work order.”  
(emphasis added)

10. Thereafter the Division Bench passed a detailed order dated 20 July 2018. In paragraph 25 of the said order, the Division Bench having noted the order dated 5 May 2017 passed in Writ Petition No.814 of 2017 which also pertained to the very same metro rail project, however in the context of tree cutting, observed that the Court cannot overlook the contention that the project of Metro Railway is for the benefit of the citizens of Mumbai and there may be merit in the contention that as and when the said project becomes operational, it will serve the cause of lakhs of citizens of Mumbai. In paragraphs 26 and 28, the Court observed as under:-

26. Therefore, after recording a *prima facie* finding which we have recorded above, we will have to make an attempt, if possible to mould the interim relief so as to permit sustainable development which will ensure that larger public interest of the community does not suffer while protecting the rights of the petitioner. Reliance has been placed on the report of CSIR-NEERI submitted pursuant to the directions issued in the case of **Dr.Mahesh Vijay Bedekar** (supra). However, the said report is in the context of the directions issued in respect of noise mapping. The added respondent relied upon certain data of decibel readings taken. However, the first respondent and the Contractor agreed before us that the reading of noise should be taken by an independent agency and, therefore, we have passed the order dated 18<sup>th</sup> July 2018 directing the

Maharashtra Pollution Control Board to do the needful.”.....

We hope and trust that the work order must have been issued by the Maharashtra Pollution Control Board. The Board shall get the work done through NEERI and submit a report by 2<sup>nd</sup> August 2018. Therefore, authentic decibel readings will be made available to this Court by the Maharashtra Pollution Control Board.“

28. As stated earlier, we make it clear that an attempt will have to be made to arrive at some workable solution so that the work of the construction of the Metro Railway progresses. We hope and trust that by the time we consider the said aspect, there will be change of approach on the part of the Contractor engaged by the first respondent and the Contractor will at least make some efforts to come to an acceptable solution which will ensure that minimum contribution is made by the work of construction of Metro Railway to the existing level of noise pollution. (emphasis added)

The operative portion of the order dated 20 July 2018 passed by the Court reads thus:-:-

30. Hence, we pass the following order :

(i) We direct the Maharashtra Pollution Control Board to ensure that a report is submitted in terms of the order dated 18<sup>th</sup> July 2018 prior to 3<sup>rd</sup> August 2018. Copies of the said report shall be furnished by the advocate for the Maharashtra Pollution Control Board to the petitioner appearing in person, the Amicus Curiae and the advocates on record of various parties;

(ii) We direct the first respondent to ensure that a Grievance Redress Mechanism is created as early as possible and, preferably on or before 3<sup>rd</sup> August 2018 as assured by the learned Advocate General. The Mechanism shall be set up in the light of what we have observed earlier.”

(iii) We direct that the petition and notices of motion which are pending shall be kept for further hearing in the light of the observations made in this order on 10<sup>th</sup> August 2018 at 1.00 p.m. Considering the urgency pleaded by the first respondent, if any of the parties desire to file further affidavits, the same shall be done on or before 8<sup>th</sup> August 2018.

(iv) The ad-interim order which is operating till today will continue to operate till we hear the parties on the report which may be submitted by the Maharashtra Pollution Control Board and pass an order after considering the said report;

(v) We have noted that earlier, certain workable arrangements were made due to the initiative taken by the learned Advocate General and the learned Amicus Curiae. Though the matter is pending, the pendency of the matter will not prevent the first respondent as well as the Contractor from taking initiative for calling meeting to arrive at an acceptable solution. If such effort is made, it will assist the Court in passing the interim order.”

11. In pursuance of the said order, a report has been placed on record by the National Environmental Engineering Research Institute (NEERI) on the '**Noise Level Monitoring at Cuffe Parade Metro Station Site, Mumbai to Assess the Ambient Noise Levels**'. Page 8 of the report is a statement of ambient noise levels dB(A) at different locations of Cuffe Parade Metro construction site which indicates that noise levels are above the permissible decibel limits during the day and night time. However, considering the said ambient noise levels, the expert committee of NEERI has made the following recommendations:-

**“6. Recommendations**

In view of the above observations, following measures should be taken to control the noise due to construction activities at metro construction sites :

- . Noise barriers (acoustic sheds or partitions) of sufficient height should be erected on the sides of construction site to contain and reduce the impact of noise arising out of various activities in the surrounding areas i.e residential zone.
- . Machine activities that generate a lot of noise should be used

during the day time only.

- . Maintenance of vehicles and machines used for construction activities should be done regularly to avoid unnecessary increase in noise levels.
- . Old equipment can be made quieter by simple modifications, such as adding new mufflers or sound absorbing materials.
- . Acoustic enclosures for DG set must be provided at the construction site.
- . MMRCL has to take all the precautionary measures to mitigate the noise at prevailing site conditions.”

12. On the above backdrop we have heard the petitioner-in-person and the learned Advocate General for MMRCL and Mr.Kamdar, learned Senior Counsel for L&T.

13. Today an additional affidavit of Mr.Ashok Bhasme on behalf of MMRCL is placed on record as also the petitioner has placed on record an affidavit objecting to the report as filed by NEERI. Mr.Jaisinghani-Petitioner-in-person has made extensive submissions contending that exceeding the ambient noise level in undertaking the Metro Project work would amount to violation of the petitioner's right under Article 21 of the Constitution. It is contended that Noise Pollution Rules are required to be strictly adhered to in undertaking the metro rail construction. It is contended that severe hardship is faced by the petitioner on account of the noise pollution being created by the construction work as it disturbs the sleep of the petitioner and his family members. It is contended by

Mr.Jaisinghani that the tunneling work can be undertaken by operating TBM only during day time i.e. between 6 a.m. to 10 p.m. It is next submitted that the claim as made by MMRCL and L&T that the TBM has to operate 24X7 cannot be accepted. It is further submitted that lowering of TBM and its parts can also be undertaken during the day time. It is thus submitted that the Court should maintain the ad-interim order prohibiting undertaking the work during the night hours.

14. On the other hand learned Advocate General appearing for MMRCL would contend that the Metro Rail Project is a project of public importance being undertaken by the Government to reduce the burden on the existing metro transport which is basically local trains and buses. Learned Advocate General while emphasizing the importance of the project has submitted the severe pressure on the existing transport facilities in Mumbai and its adverse effect on the lives of the citizens who travel long distance. The learned Advocate General submits that noise levels as recorded by NEERI cannot be disputed, however, at the same time the L&T/MMRCL would implement the recommendations as made in the report so as to control the noise levels. It is submitted that the petitioner tows an extreme line that the TBM work should not be

undertaken at night hours which is technically not feasible as also it will have serious revenue repercussion on the project. It is submitted that the tunnel boring would be undertaken about twenty five meters below the ground level and the machines would not cause any noise pollution. It is submitted that some noise would be generated on account of continuous activity of removing muck which would be transported by trucks/dumpers. It is submitted that proper care would be undertaken to see that the noise levels are controlled to the best possible extent.

15. Mr.Kamdar, learned Counsel for L&T has also supported the submissions as made by the learned Advocate General for MMRCL.

16. Having heard the learned Counsel for the parties and having perused the record, we may at the outset observe that none of the parties before us have disputed that the metro rail project of the MMRCL is a project of immense public importance, which is being undertaken at a public expenditure of Rs.23,136 crores. In exercising our jurisdiction, we cannot be oblivious to the urgent public need for better transport facilities, neither can we adopt a hard approach which would frustrate the project of such magnitude. We also cannot overlook the large public benefit which would be available to the citizens of this city on completion of the said

project. We also cannot shut our eyes to the fact that the non-operation of the machinery and/or the delay of work for a day would cause loss of Rs.4.5 crores to the exchequer for a day. Any delay in execution of the project is against public interest. It is a matter of common knowledge that the existing transport facilities in the city of Mumbai are falling short to cater to the transport needs of lakhs of citizens. Every day there are about nine deaths due to overcrowding of trains. It is a legitimate expectation of the citizens of the city that they travel comfortably and not in inhuman conditions. If the object is to unburden the transport system, some inconvenience in putting the system in place is required to be tolerated for larger public benefits. It is therefore desirable that a balance is brought about and the work of the ongoing project is not hindered on hard technical issues when MMRCL and L&T are prepared to implement the recommendations which are made by the NEERI in its report as noted above and when their endeavour is that best possible efforts would be undertaken to maintain the noise levels as per the Rules.

17. The contention as urged by the petitioner that TBM be made operational only during day time, cannot be accepted. Both, on behalf of MMRCL as also on behalf of L&T it is contended that the TBM once laid

and made operational, it is required to be operated continuously 24X7. We find that this technical aspect of operation of TBM continuously, cannot be rejected in the absence of any contrary material and thus the Court would be loath to form any opinion on any technical issues.

18. It is not in dispute that the TBM would work at a position 25 meters below ground level and the noise which would be generated by the TBM is not a matter of serious concern, the removal of muck which would be generated by the TBM by trucks/dumpers, appears to be the main concern as raised by the petitioner. However, the noise level at such operation can certainly be controlled if the measures as suggested in the report of the NEERI are implemented as also extra care is undertaken by MMRCCL and L&T in keeping to the optimum noise levels, in undertaking transportation of muck.

19. As regards the grievance redressal mechanism, the learned Advocate General has made a statement that the following measures in that regard would be immediately put in place:- (I) for registration of complaints a separate E-mail address would be notified; (ii) one toll free telephone number to lodge complaints would be made available; (iii) One

officer 24X7 would be available on the site to take complaints; and (iv) a Register shall be maintained at the site. It is submitted that with these measures being adopted, any grievance in regard to the noise levels being exceeded would be immediately attended and redressed. We may also observe that Rule 7 of the Noise Pollution (Regulation & Control) Rules, 2000 prescribes that *“any person may, if the noise level exceeds the ambient noise standards by 10 dB(A) or more, make a complaint to the authority.”* Thus a statutory mechanism is available to any person who is aggrieved by noise pollution exceeding the standards as prescribed. It would be difficult for this Court in exercise of its writ jurisdiction under Article 226 of the Constitution to entertain such complaints and adjudicate the same. Hence, it would be appropriate that such redressal mechanism being made available, as per the statement made by the learned Advocate General, is utilized by the aggrieved persons, in addition to statutory remedy which is available.

20. In the light of the above discussion, we are of the opinion that the order dated 11 August 2017 passed by this Court is required to be vacated, however by the following order:-

ORDER

(I) The MMRCL and its contractors are permitted to carry out construction and/or ancillary activities also during the night hours that is between 10 p.m. to 6 a.m.. The said activities shall be undertaken by due implementation of the recommendation as made by NEERI in its report of August,2018.

(II) It is directed that the grievance mechanism as suggested by the learned Advocate General shall be immediately made available within one week from today.

(III) Any person who is aggrieved by any specific instance of noise level exceeding permissible limits, shall either approach the grievance redressal officer to be notified on behalf of MMRCL/State Government, and/or may resort to the statutory remedy available under the Noise Pollution (Control and Regulation) Rules,2000.

(IV) The Notices of Motion are disposed of in the above terms. No costs.

Prashant  
Vilas  
Rane

Digitally  
signed by  
Prashant  
Vilas Rane  
Date:  
2018.08.24  
14:32:47  
+0530

**(G.S.KULKARNI, J.)**

**(ACTING CHIEF JUSTICE)**