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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 36 OF 2021
WITH
INTERIM APPLICATION NO. 11648 OF 2024**

Sarang Yadwadkar & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

Ms. Gayatri Singh, Senior Advocate i/by Ms. Ronita Bhattacharya Bector for petitioners.

Ms. Neha S. Bhide, Govt. Pleader a/w Mr. O. A. Chandurkar, Addl. Govt. Pleader a/w Ms. G. R. Raghuwanshi, AGP for respondent no.1.

Mr. Abhijit P. Kulkarni a/w Ms. Sweta Shah, Abhishek Roy and Shravani Todkar for respondent nos.2 and 3 – Pune Municipal Corporation.

Mr. Nitin Gaware Patil a/w Mr. Divyesh K. Jain for respondent no.5.

Ms. Shweta Kurhade, Executive Engineer – Khadakwasla, Pune, is present.

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE: 30th JUNE, 2025

ORAL ORDER [Per Chief Justice]:

1. With the consent of the learned counsel for the parties, hearing finally.

2. The petitioner no.1 claims himself to be an Architect and to be a resident of Pune. Petitioner No.2 claims himself to be the President of registered Non-Governmental Organization,

viz., Sajag Nagrik Manch, where as petitioner no.3 claims that he runs an Non-Governmental Organization, viz., Surajya Sangharsh Samiti.

3. in this Public Interest Litigation, the petitioners, *inter alia*, seek a direction to Pune Municipal Corporation to replace the demarcations of flood lines in 2017 Development Plan for Pune City and superimpose them with flood lines as demarcated in the maps dated 5th March, 2011. The petitioners also seek a direction to Pune Municipal Corporation as well as Chief Engineer, Pune Municipal Corporation, not to grant any permission for development in lands within 100 mtrs. Distance of the current flood lines. The petitioners also seek a direction to aforesaid respondents to revoke any permissions for development of lands within 100 mtrs. Distance of current flood lines demarcated in the Development Plan of 2017.

4. A Division Bench of this Court by an order dated 26th June, 2024, taking into account the nature of issue involved in the PIL, had directed constitution of an expert committee. The aforesaid order is extracted below for the facility of reference:-

"P.C.:

1. *Considering the issue raised in this public interest litigation petition which is of seminal importance as it raises concerns about faulty demarcation of flood line in the city of Pune, the Court on 6 December 2023 had passed an order directing the Irrigation Department to complete the study of demarcation of flood lines in the City of Pune and produce it before the Court. The said study has been conducted in terms of an earlier order passed by this Court on 27 March 2023.*

2. *The respondent No.5 - Maharashtra Krishna Valley Development Corporation has filed an additional affidavit-in- reply sworn in by Ms. Shweta Yogendra Kurhade, Executive Engineer, Khadakwasla Irrigation Division which contains a report dated 2 January 2024. Learned Counsel appearing for respondent no.5 has taken us through said report. Apart from various charts containing necessary statistics, the report has clearly mentioned that while determining the flood lines various important factors and considerations were not taken into account in the past. The relevant extract of the said report contained in clauses 14 to 18 are reproduced hereinbelow:*

"14. It appears that there are several important factors and considerations that have not been taken into account while making flood lines in the mentioned areas. Let's summarize the key points raised in each statement.

15. Free Catchment Area: The flow from the free catchment area between Khadakwasla Dam and Mula-Mutha Confluence in 2011 has not been considered. It is suggested that this factor should be taken into account in the flood line marking process.

16. MERI Guidelines: The Maharashtra Engineering Research Institute (MERI) in Nashik published guidelines for Blue/Red flood lines on 16/11/2015. However, these guidelines were not considered when marking flood lines in 2011, and also not taken into account for the 2016 flood lines superimposed on Development Plan maps.

17. TERI Action Plan: The Energy and Resources Institute (TERI) in New Delhi prepared a climate change action plan in 2014 for Maharashtra. This plan predicted a 37.5% rise in rainfall around Pune with more frequent cloud burst events. The applicants point out that this prediction was not considered in the demarcation of flood lines.

18. In light of these points, it is suggested that a comprehensive review of the flood line

demarcation process be conducted, taking into account the flow from the free catchment area, MERI guidelines, and the TERI climate change action plan. Addressing these aspects would contribute to a more accurate and comprehensive understanding of flood risk in the area."

3. *The report has thus suggested that a comprehensive review of the flood line demarcation be carried out taking into account various relevant considerations, guidelines and reports etc. Learned counsel for the Pune Municipal Corporation as also the learned counsel representing the petitioners also emphasized that a fresh comprehensive review of demarcation of flood lines in the city of Pune is the need of hour.*

4. *Demarcation of flood line in an urban area or a city like Pune assumes importance for the simple reason that in case any development activity is permitted by the municipal body of such an urban area in the flood zone of any water channel like a river etc., the same results in reducing the flood carrying capacity of such a water channel, which, ultimately is the cause of flood. To ensure that the earth continues to remain habitable, it is thus very necessary to appropriately and correctly demarcate the flood line of water channels, failing which the inhabitants of the area may face problems beyond remedies.*

5. *The Government of Maharashtra had appointed an Experts Study Committee to analyze the causes and remedies on flood, which submitted a report which is on record as Exhibit-A appended to the additional affidavit in rejoinder, dated 21 February 2024. The report of the Experts Study Committee analyzes the causes and remedies. Perusal of the said report would reveal that a lot needs to be done by the Government, its agencies and municipal bodies to check the flood in the urban areas.*

6. *Having regard to the significance of the issue involved, on our request learned Advocate General Mr. Birendra Saraf has addressed the Court and has expressed his concerns as well.*

7. Accordingly, we direct that the report dated 2 January 2024 which forms part of the additional affidavit-in-reply filed by the respondent No.5 – Maharashtra Krishna Valley Development Corporation, dated 9 January 2024 shall be placed before the Additional Chief Secretary / Principal Secretary of the Department of Water Resources Development of the State Government, who shall consult all other departments / bodies, including municipal corporation and form a five-member Supervisory Committee comprising of experts of the Water Resources Department and any other related departments. He shall also co-opt some experts from the external expert agencies, i.e. the agencies other than the Government agencies such as any institute of repute at national level or any academic / research institution.

8. The said Experts Committee to be formed under this order shall be headed by the Additional Chief Secretary of the Department of Water Resources Development which shall formulate a plan for conducting the comprehensive review of the flood line demarcation in the city of Pune. The Committee shall also prepare a blue print for conducting the said review and shall also determine the human resources to be deployed for the said purpose.

9. The Experts Committee to be formed under this order shall also fix a time-line within which the flood line demarcation review is to be completed.

10. We, thus, direct that the Experts Committee under this order shall be formed within two weeks, which shall consider and finalize the blue print for undertaking comprehensive review of demarcation of flood line in the city of Pune within four weeks' thereafter.

11. When the matter is next listed, an affidavit shall be filed by a high-ranking officer to be nominated by the Additional Chief Secretary of the Department of Water Resources Development of the State Government, giving details of the steps which may be taken during this period for ensuring compliance of the directions being issued by us in this order.

12. *The affidavit to be filed under this order by the State Government shall be served in advance at least by one week upon the learned counsel for the petitioner and also learned counsel representing Pune Municipal Corporation.*

13. *List the PIL petition on **14 August 2024.***"

5. When the matter is called out today, learned senior counsel for the petitioners submits that the expert committee has not submitted the report so far. On the other hand, learned Government Pleader, on instructions, submits that instructions shall be issued to the expert committee constituted by this Court to submit the report and State Government shall consider the report, which may be submitted by the expert committee within such time as may be fixed by this Court and take requisite action, if so advised.

6. We have considered the submissions made on both sides and have perused the record. The issue relating to re-drawing of the flood lines is a technical matter and this Court has no expertise over the same and, therefore, cannot deal with such matters which are to be dealt with by an expert body. In the instant case, a Division Bench of this Court has already constituted an expert committee. Therefore, we deem it appropriate to issue following directions:

(a) The Expert Committee shall positively submit a report to the State Government within a period of two months from today.

(b) The State Government on receipt of the report, submitted by the Expert Committee, shall take an

appropriate action on the recommendations of the Expert Committee within a further period of two months.

(c) It will also be open to the petitioners to give suggestions, if so advised, to the State Government.

7. Insofar as the relief sought for by the petitioners with regard to revocation of permissions for development of lands within 100 mtrs. distance of current flood lines is concerned, suffice it to say that the petitioners have not impleaded any person who has raised any construction within 100 mtrs. distance of current flood lines demarcated in Development Plan of 2017. Therefore, this Court is unable to issue any positive direction. However, the Pune Municipal Corporation shall examine the issue and shall take action in accordance with law after affording an opportunity of hearing to the persons, who may be aggrieved by the proposed action, which may be taken by the Pune Municipal Corporation after receipt of directions from the State Government issued after consideration of expert committee report.

8. All interim orders passed earlier stands merged into this order and do not survive.

9. With the aforesaid directions, the PIL stands disposed of.

10. Interim Applications, if any, also stand disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)