

Maytas, Hyderabad Metro and the Politics of Real Estate

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In the 10 days since the revelation of the massive fraud at Satyam, there has been much speculation that the holes in the software company's books were caused by the promoters' links with Maytas, the infrastructure company that in recent years has become the favourite of the government of Andhra Pradesh. This article puts under the magnifying lens the award in 2008 of the massive Rs 12,000 crore contract to Maytas to build and operate the Hyderabad Metro.

"Earlier industrialists and then defence contracts financed political parties. Now real estate does, especially in the states because chief ministers have easier access to it. The kickbacks are huge" – Charles Correa (Interview, Times of India, 10 September 2008).

1 Introduction

The shocking revelation on 7 January that Satyam Computer Services had been cooking its books for years has caused an earthquake in the Indian corporate sector. Satyam's revelations turn the spotlight back on Maytas, the infrastructure group held by the promoters of Satyam. Indeed, it was Satyam's proposed takeovers of Maytas that set in motion the events that have led to the near collapse of Satyam itself. Was the selected bidder for the Hyderabad Metro Rail Project (HMRP) favoured even before the final tendering was over? Does it point to a "political scam"? The managing director of Delhi Metro Rail Corporation (DMRC), and prime consultant to HMRP until recently, E Sreedharan, thinks so. He made several such scathing remarks in a letter to Deputy Chairman of the Planning Commission, Montek Singh Ahluwalia, on 11 September 2008 and even more explicitly in another article later (Sreedharan 2008). Shaken by the exposure from its own consultant, the HMRP officials reacted strongly and also in a belittling manner, demanded unconditional apology, and threatened to file a defamation suit. Sreedharan refused to apologise. The DMRC and government of Andhra Pradesh (GOAP) parted ways.

Sreedharan was reacting to a major policy shift in the government of India (GOI) to operationalise all future urban metro projects under the build-operate-transfer (BOT) model solely under the private sector. It

may be recalled that the consortium that has two Hyderabad-based real estate companies, Navbharat and Maytas, bagged the contract for the Rs 12,132 crore project by not seeking any viability gap funding (VGF) and also offered a royalty of Rs 30,311 crore to the GOAP. In this consortium, the dominant player is Maytas, the real estate firm of the sons of the information technology major, Satyam Computers. A new company, Maytas Metro Limited (MML), was floated by the successful consortium and signed the contract with GOAP on 19 September 2008.

The HMRP comprises three routes for a length of 71.16 km: Line-1 from Miyapur to L B Nagar (29.87 km); Line-2 from Jubilee Bus Station (JBS) to Falaknuma (14.78 km); and Line-3 from Nagole to Shilparamam (26.51 km). The entire project is an elevated corridor along the central meridian of roads with two parallel tracks of rails, and 66 stations which will have long additional platforms with staircases, escalators, lifts, etc. The elevated track will be at a height of 35 to 50 ft, at some places as high as 60-70 ft in the thickly built core city. The metro corridors will have to cross several existing flyovers and also intersect each other at three places. Huge shopping complexes and malls are likely to come up at several metro stations. The cost of this project has already doubled in three years from about Rs 6,000 crore to over Rs 12,000 crore during 2005-08. It is also likely to face many hurdles in land acquisition, litigations, and traffic problems, etc. With all these factors likely to lead to about 50% cost escalation in the coming years, the project cost may reach upwards of Rs 18,000 crore and may well rise from the estimated Rs 171 crore now to Rs 250 crore per km. This project has been touted as the biggest private-public partnership (PPP) in India though practically it has now become a totally private funded project. This is probably the largest infrastructure project ever undertaken in Hyderabad's history.

It will result in large-scale demolition of buildings, including of the State Archives, and defacement of historic heritage precincts on a scale the city has never

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witnessed before. In the next section some serious concerns on the implications of this project are discussed. The third section deals with the selection of the bidder and Sreedharan's objections. Certain features of the concession agreement are dealt with in Section 4 followed by concluding remarks in the last section.

2 Project Issues

This section discusses some of the major implications of the project.

2.1 No Transparency

Till the bidder was selected in late July 2008, the HMR officials refused to provide detailed project reports (DPRS) even under the Right to Information (RTI) Act, 2005 on the ground that they contain information which have high commercial value and that "the BOT tender process is still on".¹ Several applications made under the RTI Act by different applicants have not even been replied to before the bidding was over. The officials have refused to share information despite several demands made by political parties, intellectuals and civil society groups to get the documents and initiate an informed debate. Information was provided selectively after the bidding was over. A public interest litigation was filed in August 2008 in the High Court of Andhra Pradesh (Writ Petition No 18483 of 2008).

The HMRP is taken up under the Andhra Pradesh Municipal Tramways (Construction, Operation and Maintenance) Ordinance, 2008 (now an Act). As per Section/subsections 3 and 4 of this Act, upon receiving a request from a municipality, the GOAP should publish an order/notice inviting objections/suggestions from public, and publish a final notification after duly taking into consideration those objections/suggestions. The GOAP has denied the public this right to know by taking shelter under Section 5 which says that the government may enter into an agreement or any other arrangement through open bidding process for any municipal area.² Thus, the GOAP has kept the options of informing the public and also denying the right to know depending upon who initiates the project! The occasional briefings to the media and a few official gatherings are sought to be passed off as public consultations by

HMR authorities. The faculty in the departments of transport engineering, Jawaharlal Nehru Technological University, Hyderabad, and National Institute of Technology, Warangal were totally excluded in conducting studies for this project.³

2.2 Security and Heritage

Line-1 will pass by the Andhra Pradesh Secretariat and Legislative Assembly buildings with the rail corridor at 45 ft along with two stations which are likely pose a serious security risk. In Delhi, the elevated metro rail goes underground near the Central Secretariat (and in Lutyens Delhi) due to security concerns and the need to protect the heritage. It was felt there that an elevated corridor would have marred the beauty of the city. Keeping in view the ancient monuments of heritage value between the Central Secretariat and Mehrauli, in Delhi the metro has been taken underground.⁴ The two corridors of the elevated metro rail in Bangalore are going underground for 6.76 km near the areas around Vidhana Soudha, which too is of high heritage and of historic importance.⁵ The DMRC prepared DPRs for the Bangalore metro. Heritage buildings represent and remind residents of the past history, culture, architecture and political systems. Hyderabad has a number of heritage buildings. The metro corridors are going to deface about 27 of the 137 listed heritage precincts of the city. Further, they are also going to affect about 44 buildings that are identified as having potential heritage value.⁶ The pedestrian shopping areas and historical landmarks like Sultan Bazar and Badi Chawdi will have to be demolished in a big way for metro rail construction. These are also high-density residential areas with shops on the ground floor and residences above. As prime consultant to HMRP, the DMRC has not shown a similar sensitivity to Hyderabad compared to Delhi and Bangalore on security and heritage issues.

2.3 High Noise Levels

The noise level of up to 85 dB(A) that may be generated by elevated metro rail (as indicated by HMR officials in a presentation) would seriously hamper the peace of residential areas where noise levels should not exceed 55 dB(A) and 50 dB(A) in the

day and night times, respectively. Lakhs of middle class people are living close by on either side of the proposed routes. Similarly, silence zone areas like hospitals and educational institutions where the prescribed noise levels are 50dB(A) during the day and 45dB(A) at night will cause serious disturbances. Even in industrial areas the maximum permissible noise level is 75dB(A) during day time.⁷ The "stringent noise standards mandated" to the BOT developer are also not in conformity with the noise standards of Central Pollution Control Board (CPCB): 60dB(A) for hospital zones, 50-70 dB(A) for residential areas, and 75 dB(A) for business and commercial areas (Counter Affidavit 18483 of 2008). There are about 320 places (51 schools, 96 colleges, 118 hospitals, 54 religious places, and the Secunderabad Courts and AP Judicial Academy all falling in the silence zone category on either side of the three metro routes.⁸ They also include some of the most important public hospitals and educational and research institutions in Hyderabad like the Nizam Institute of Medical Sciences, Gandhi Medical College and Hospital, Osmania Medical College, Vivek Vardhini College, Government Maternity Hospital, etc. The elevated metro rail will run within 20-30 metres in many areas, sometimes as close as 10-15 metres, from buildings in some of the thickly populated areas. The Noise Pollution (Regulation and Control) Rules, 2000 of the CPCB are applicable up to 100 metres. The high levels of permissible noise by HMRP violate the existing laws on noise and adversely affect the quality of environment and hence the right to life.

2.4 Environmental Clearance

The Environment and Social Impact Assessment (E&SIA) Report for Lines-1 and 2 done in June 2003 is known to have used outdated methods, made unsubstantiated averments, did no study of the environment impact, and did not comply with the guidelines of the United Nations Environment Programme or Ministry of Environment and Forests (MOEF), GOI.⁹ With so many implications for environment, security and heritage, and despite being a huge infrastructure project, it is claimed that the metro rail projects are exempted

from environmental clearances by the GOI as a “deliberate exclusion”. The MOEF first included “MRTS in Metro Cities” for mandatory environmental clearance in the Draft EIA Notification dated 15 September 2005 but excluded them in the Final Notification dated 14 September 2006. The only basis for their exclusion appears to be a letter addressed by E Sreedharan on 14 November 2005 to the joint secretary, MOEF requesting for their exclusion on the ground that they are environment-friendly.¹⁰

3 A ‘Settlement’?

Was the selection of Maytas a political settlement of some sort?

3.1 Maytas and Real Estate

Five consortia with a combination of Indian and foreign companies (Reliance, GVK, NCC, Gammon; and Alstom, Bombardier, Siemens, etc) qualified for financial bidding for this project. One of them was the Navbharat-Maytas-ItalThai (ITD-Thailand)-IL&FS (Infrastructure Financing and Leasing Services) consortium, which was selected as the “successful bidder” on 23 July 2008. Instead of seeking any viability gap funding (VGF), this consortium has offered to pay a royalty of Rs 30,311 crore to the state government: Rs 511 crore before the ninth year and Rs 1,750 crore per year from the 18th to the 34th year. The project has a lease period of 35 years, including construction time, with a possible extension by 25 years. Of the remaining three consortia, only the Nagarajuna-Siemens group did not seek the VGF and also offered Rs 250 crore to the state government towards its equity share. The other two consortia sought the VGF. The royalty (“negative subsidy”) of Rs 30,311 crore was equated as net present value of Rs 1,250 crore by discounting at prime lending rate of 13.5% prevailing on the date of financial bidding. On the face of it, this financial model seems very attractive because the bidder has not asked for VGF and instead is paying a “huge” royalty. It was even said that Hyderabad is going to get the metro rail “for free”, at “zero cost to governments and city administrations”.¹¹ The huge economic and social costs that thousands of the affected people pay, and the huge costs of land acquisition

and rehabilitation, do not appear as a cost at all.

Maytas has no previous experience of building and operating a metro rail. It got eligibility for bidding because of its tie-up with Ital-Thai, which was involved in the construction of the Bangkok skytrain. After bagging the contract, the new company to construct and run the HMRP was named MML. The share of Ital-Thai seems to be only 5% in MML. The originally intended share of Ital-Thai in this consortium is not known. In tune with the present GOAP’s controversial (and scandalous) policy of allocating large tracts of land to corporate companies, Maytas has been trying to get 2,500 acres for Machilipatnam port. Riding on the positive image of the information technology sector and (before the scandalous revelations in January 2009) of Satyam Computers, in a short time, Maytas has emerged as an important real estate company with ventures in hundreds of acres (special economic zones) on the outskirts of Hyderabad. Maytas advertises its “most high-value gated communities”, “a world unlike any you’ve ever known”, “modern workspaces for global work styles where shopping malls, schools, medical facilities, recreational centres will be essential features”, “designed for contented and fulfilled communities”.

Maytas is now believed to be looking at expanding the metro rail project not just

to make its bid viable but also to get more value for its properties by providing connectivity. The government seems to have agreed to give the company the opportunity to expand routes and therefore additional land (Srinivas 2008). In recent years, the Government Order No 111 meant for protection of Osmansagar and Himayatsagar reservoirs around Hyderabad has come under threat from real estate lobbies eyeing lands in their catchment areas, which are located closer to the new airport and the outer ring road (ORR). Indications are that the threat has become more serious now. The feeling that this selection of the bidder looks like a “settlement”¹² in the context of land allocations, real estate and politics in Andhra Pradesh (as in Charles Correa’s observation), and of the future plans of Maytas gains strength in view of the objections raised by Sreedharan and the presence of several pro-Maytas clauses in the concession agreement.

3.2 The Favours

E Sreedharan argues that the BOT model, recommended only for Hyderabad, was expected to succeed due to the low cost of construction (since no tunnelling is involved), and the huge ridership (passenger traffic) expected. Even then, 40% of the cost would be needed as VGF to make it

Figure: Existing and Proposed Rail Lines of Hyderabad Metro

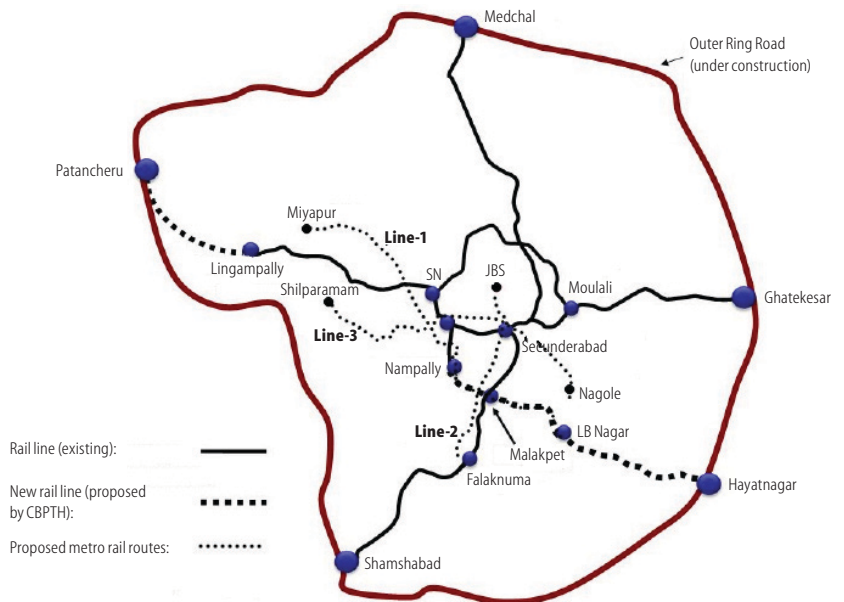


Figure not to scale.
SN - Sanathnagar

work. Later the GOAP offered 269 acres of prime land in the city to the BOT operator, which the DMRC had not recommended. Sreedharan further says that “when we discovered that the Metro lines were altered and extended¹³ (DMRC had objected to this) to areas where the successful BOT operator had extensive private land holdings...we began to feel that the tendering process was clearly not transparent enough and we withdrew from our role as prime consultants”. To the argument of the GOAP that two senior officers of DMRC were in the committee for evaluation of the bids and that throughout the bid process DMRC’s senior officers were closely advising GOAP, Sreedharan reacted emphatically: “DMRC was not involved in the pre-qualification of tenders nor in the selection of the BOT operator”. He was also categorical that the alterations to the DPR which “benefited a particular party” may lead to a political scandal later if enquired into by a successive government. He wants standardisation and indigenisation of metro rails in the country for a significant reduction in cost, which is not possible if each metro is executed by a private agency. He argues that the Hyderabad model of BOT (without VGF) was possible because of large tracts of lands available around the city (a “sweetener” to the BOT developer) which other cities that are going for a metro do not have. Thus, he strongly advocates the Delhi model of metro rail in the country (as a joint venture between state and central governments).

Questions that ask for answers are: As a prime consultant, if DMRC had objected to altering and extension of the metro routes, then who recommended such changes? Since these changes were made much before the bidder was selected, does it not indicate that the GOAP and the “selected” BOT developer were hand-in-glove? It may be noted that the bids were opened on 23 July and the official announcement was made by GOAP only on 28 July 2008 giving rise to a lot of speculation in between. Since the afternoon of the bidding “all the excitement that the project would reach a decisive stage went kaput once lips got sealed” and what happened after the officials concerned went to the chief minister’s office remains a matter of

conjecture (*The Hindu*, 24 July). How is it that Montek Singh Ahluwalia wrote to the prime minister on 25 July itself, even before the “successful bidder” was announced, citing Hyderabad’s experience of getting a “negative subsidy” and that they “are engaged in pushing for a similar effort for other metropolitan cities”.¹⁴ Does not the Planning Commission’s “pushing for a similar effort” indicate that it was aware of the outcome of the bidding in Hyderabad even before? Otherwise, how does one push for a model even before its very nature is known? Ultimately, does it not mean that the model of negative subsidy adopted by Maytas was known to the powers that be and the whole process of global bidding was a formality for official sanction and legitimacy, which is now coming into the open as a farce?

4 A ‘Model’ Sell-Out?

Some of the clauses in the Concession Agreement (CA) for HMRP signed between the GOAP and MML (“the Concessionaire”) further strengthen the argument that this is more a real estate project and the GOAP has been more eager to favour Maytas than protect public interest in this PPP.¹⁵ Real Estate Development (RED) is included as a part of the rail system by definition along with the rail-related infrastructure. The total land available to the concessionaire is 269 acres at Miyapur (99 acres), Falaknuma (17 acres) and Nagole (96 acres), and 57 acres at 34 metro stations in the core city. If the earmarked lands are not made available by the government, alternative sites of comparable size and potential should be earmarked for RED. Ten per cent space of the metro stations can also be used for real estate. There is no clause which says that more lands will not be given in future. If read with Section 17.2(a) of the AP Tramways Ordinance, 2008 mentioned earlier, which clearly empowers the “tramway operator” to “acquire, hold and dispose of all kinds of properties, movable and immovable”, it becomes clear that Maytas may resort to acquisition of lands in future in the name of the metro rail project. Local taxes or charges should not be levied on the RED, which means the Greater Hyderabad Municipal Corporation (GHMC) will lose

huge amounts of taxes on the real estate business of the MML. Further, the benefits under the AP Infrastructure Development Enabling Act, 2001 should also be made available to this project.

The Competing Facility (CF) clause not only enables MML to exercise monopoly on passengers in the three routes but also empowers it to levy a higher tariff during peak hours. The government has given up its responsibility to improve or provide other modes of transportation to the public in future in the metro routes. The CF should not be introduced until the 25th year. If introduced after that, the concession period will exceed by the period equal to the duration from the start of CF and the 35th year. Further, the fares in the CF should be higher by a minimum of 25% compared to the rail system. This also means that the AP State Road Transport Corporation (APSRTC) will not be allowed in the future to introduce modern buses for public comfort on these routes. This clause sounds the death knell to the APSRTC in the city where it is earning profits, carrying about three million passengers daily, and where it needs strengthening. The objective of providing cheap mass public transport is negated and people will be forced to pay higher tariff for travel by the metro rail.¹⁶

The most glaring and blatantly pro-Maytas clause is provided for in extension of the lease period based on a shortfall of traffic. By 1 October 2021 the traffic is estimated to be 2.75 crore passenger kilometres (PKM), i.e., about 26.76 lakh passengers per day. If the actual traffic falls short by 1%, the concession period will be increased by 1.5% (of 35 years) to a maximum of 20% (i.e., seven years). The actual traffic for that date shall be derived by traffic sampling, which should be done a year before. First of all, there is no scientific basis for estimating these traffic figures. When everything is supposed to be computerised, why should there be a sample study a year before? It is a well known fact that even after five years the Delhi metro is not carrying even 30% of the projected ridership (Mohan 2008). The lease period of 35 years gets automatically extended to 42 years with this clause. With a possible extension of the lease period by 25 years, the city, its lands, and

the future of the commuters will be in the hands of the Maytas real estate company for almost 67 years, that is more than the period since India's independence till date!

The GOAP appears to be deliberately willing to pay a penal amount to Maytas. One of the main obligations of the GOAP is to procure the site (i.e., all lands and buildings) for construction and also procure approval of railway authorities for construction of bridges, etc., at railway lines within 30-60 days of deposit of the Performance Security (PS) of Rs 240 crore by MML, which should be done within 180 days of signing the CA. For delay, the GOAP shall pay 0.1% of the PS (i.e., Rs 24 lakh) per day subject to a maximum of 20% (i.e., Rs 48 crore). The GOAP is bound to pay this penalty given the difficulties of getting permissions from railways, and land acquisition problems. The metro corridors will have to cross railway lines at several places. Line-2 will cross the entire Secunderabad station across all ten platforms along with a station in the front. The South Central Railway (SCR) has plans to upgrade this station to international standards. This is going to cause inordinate delays in getting permissions.¹⁷ In future, if the concessionaire wants to get out of this project and, therefore, defaults, and if the CA has to be terminated because of this, the MML will not lose anything. The government has agreed to pay a lot to the private company!

5 Conclusions

Inequitable real estate development in cities (of the kind Maytas and several other corporate real estate companies are engaged in) is "the knife-edge of neoliberal urbanism" for which PPPs represent one of the foundations of governance at local level (Hackworth 2007). The inevitability of metro rail and providing "world class" transport to public in Hyderabad, while simultaneously weakening the existing public transport systems, has been carefully orchestrated in the last few years. At stake now is not just the future of mass public transport but the city itself. The Planning Commission has prepared the "Model Concession Agreement" which provided the basis for HMRP. Going by what this "model" portends for

Hyderabad, and if the apex planning body is "pushing for a similar effort" in other cities, the policymakers appear to be very keen to hand over the big cities to real estate companies and facilitate corporate landgrab to the detriment of the public welfare.

By signing the CA without even issuing land acquisition notices and preparing a resettlement and rehabilitation package, the GOAP, as a strategy, is trying to create a fear psychosis among the people along the metro routes regarding the inevitability of giving up their properties on the ground that since the government has already signed the contract, it will not go back. To add to such feelings, occasional pronouncements are made to the effect that the metro work will start "next month", that each day's delay will cause an additional expenditure of Rs 3.20 crore to the BOT developer and hence the project will be completed on schedule, etc. With full backing of the political leadership, the top level bureaucracy is riding roughshod over other government departments for acquiring lands/buildings and flouting rules. Taking over of such properties is passed off as "transfer from one department to another within the government" by concealing the fact that they are ultimately handed over to Maytas. For Sreedharan, as more cities are gearing up to swallow the metro rail projects under his consultancy, things seem to be getting out of control with the local real estate bigwigs entering the scene and influencing decision-making as Charles Correa argued.

The promotional hoardings of Maytas on Hyderabad's streets for its real estate venture, Maytas Hill County, proclaim: "Soon, there will be nothing left". One hopes this does not become true for democracy, its institutions and the politics.

NOTES

- 1 Letter dated 8 February 2008 from HMR Limited to an applicant under RTI.
- 2 As per the Counter Affidavit to the WP No 18483 of 2008 by HMR authorities.
- 3 The well known Hyderabad Area Transportation Study (HATS), 1988 was done by C Raghavachari of the then Regional Engineering College (now National Institute of Technology), Warangal.
- 4 Delhi High Court judgment dated 30 May 2008 in WP(C) 8516/2007.
- 5 <http://www.bmrc.co.in/ph.html> accessed on 14 August 2008.

- 6 According to a survey by Heritage Cell of Forum for a Better Hyderabad, a civil society organisation.
- 7 Based on ambient noise standards of the Central Pollution Control Board (Source: www.cpcb.nic.in accessed on 29 May 2008).
- 8 Based on a quick survey along the proposed metro rail routes on 1 June 2008 by a team of the Citizens for Better Public Transport in Hyderabad (CBPTH).
- 9 Cerana Foundation, a well-known environmental consultancy organisation in Hyderabad, made a quick analysis of the Report.
- 10 Material Papers of the Counter Affidavit to the WP No 18483 of 2008.
- 11 "Hyderabad to get 71-km metro 'free of cost'", www.business-standard.com New Delhi, 8 August 2008.
- 12 In popular parlance, a "settlement" connotes a deal reached in advance by the concerned parties before making it an official formality.
- 13 After March 2008, the Line-3 was extended by 4.5 km from Habsiguda/Tarnaka to Nagole where 96 acres of land is earmarked for BOT development. A huge real estate venture of people close to the powers that be is known to be going on here. The E&SIA Report of 2003 mentions Line-1 from Kukatpally to Dilusukhnagar for a length of 18.03 km. When the present government took a policy decision to develop mass rail transit system (GO No 574 dated 4 June 2005), Line-1 was extended at both ends to Miyapur and Dilusukhnagar. From Dilusukhnagar, it got later extended up to L B Nagar, which is closer to Nagole. It is at Miyapur that Maytas has been taking up real estate ventures in a big way. It is not clear whether Sreedharan had objected to all these or only some extensions.
- 14 Letter by Montek Singh Ahluwalia to Prime Minister, dated 25 July 2008 (Source: Material Papers to the Counter Affidavit in the WP No 18483 of 2008).
- 15 A team of civil society activists visited the HMR office on 25 October 2008 to peruse the documents under Section 4 of the RTI Act. The web site of HMR Limited, www.hyderabadmetrorail.in does not provide the concession agreement (as on 11 November 2008).
- 16 It may be noted that the well-functioning Begumpet airport was closed in Hyderabad due to a clause in the agreement with the GMR group that there should not be another airport within 150 km radius of Shamshabad. After giving over 5,000 acres of land, and Rs 500 crore as interest-free loan (whose repayment starts after 10 years) to the GMR group, the passengers are levied user development fees.
- 17 Reliable sources in the SCR indicated that the railways would like the metro go underground at Secunderabad station. Already, construction of bridges/flyovers has been delayed by several months at three places in the city due to queries raised by railway authorities.

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