

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(1) IN RE: REPORT NO. 71 AND 78 SUBMITTED BY EPCA  
(REGARDING COMPREHENSIVE ACTION PLAN FOR AIR POLLUTION CONTROL AND  
SUPPLEMENTARY REPORT ON THE COMPREHENSIVE ACTION PLAN WITH  
TIMELINES)

2) IA NO. 2733/2018 (APPLN. FOR IMPLEADMENT ON B/O NIPUN MALHOTRA)

Date : 05-02-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Advocate (A.C.) [NP]

Ms. Aparajita Singh, Advocate (A.C.)

Mr. A.D.N. Rao, Advocate (A.C.)

Mr. Siddhartha Chowdhury, Advocate (A.C.)

For Petitioner(S) Petitioner-In-Person

For Respondent(S) Mr. Vijay Panjwani, Advocate  
Mr. Kamlesh Vaswani, Adv.

Mr. A.N.S. Nadkarni, ASG

Mr. Amit Sharma, Adv.

Mr. Wasim Qadri, Adv.

Mr. D.L. Chidanand, Adv.

Mr. Ritesh Kumar, Adv.

Mr. Zaid Ali, Adv.

Mr. Balendu Shekhar, Adv.

Mr. Raj Bahadur, Adv.

Mr. G.S. Makker, Advocate.

Mr. Divya Prakash Pande, Adv.

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Mr. Shivam Kumar, Adv.  
Mr. Sanjay Kr. Visen, Advocate

Mr. Abhishek, Advocate  
Mr. Arijit Prasad, Adv.  
Mr. Ramjee Pandey, Adv.

Mr. Tushar Mehta, ASG  
Mr. Shiv Mangal Sharma, Adv.  
Mr. Saurabh Rajpal, Adv.  
Mr. Amit Sharma, Adv.  
Mr. Sandeep Singh, Adv.  
Mr. Ankit Raj, Adv.  
Ms. Indira Bhakar, Adv.  
Ms. Ruchi Kohli, Advocate

Mr. B.V. Balram Das, Advocate

Mr. Sandeep Narain, Adv.  
Ms. Anjali Agarwal, Adv.  
For M/S S Narain And Co., Advocates

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Ms. Shivangini Gupta, Adv.  
Ms. Manisha Ambwani, Advocate

Mr. Gopal Subramaniam, Sr. Adv.  
Mr. Akshat Hansaria, Adv.  
Mr. Mohit Singh, Adv.  
Mr. Pavan Bhushan, Adv.  
Mr. Ritesh Bajaj, Adv.

Mr. Jayant Bhushan, Sr. Adv.  
Ms. Vanita Bhargava, Adv.  
Mr. Ajay Bhargava, Adv.  
Ms. Richa Bhargava, Adv.  
Ms. Shweta Kabra, Adv.  
Mr. Sanjeev K. Kapoor, Adv.  
Mr. Gaurav Juneja, Adv.  
Mr. Navneet Vibhaw, Adv.  
For M/s Khaitan & Co.

UPON hearing the counsel the Court made the following

O R D E R

REPORT NO. 71 AND 78 (REGARDING COMPREHENSIVE ACTION PLAN FOR AIR POLLUTION CONTROL) IN THE NCR REGION INCLUDING HARYANA, RAJASTHAN AND U.P.

The learned *Amicus* has brought to our notice a press release dated 15.11.2017 issued by the Press Information Bureau of the Government of India through the Ministry of Petroleum and Natural Gas.

The Press Release reads as follows:

"Pre-ponement of introduction of BS -VI grade auto fuels in NCT Delhi

The Government of India has been making concerted efforts in line with Prime Minister Shri Narendra Modi's Commitment at COP 21, to reduce vehicular emissions and improve fuel efficiency with an aim to reduce the carbon footprints and keep a healthy environment. India has followed the regulatory pathway for fuel quality and vehicle emissions standards termed as Bharat Stage (BS).

The Ministry of Petroleum and natural Gas has successfully introduced the BS-IV grade transportation fuels across the country w.e.f April 1<sup>st</sup> 2017. With the launch of BS-IV grade fuel, a new era of clean transportation fuels has begun which will benefit all citizens of our country by substantially reducing pollution levels. Migration to BS-IV grade fuels shows India's resolve to cut down emissions.

As a next step in this direction, Government in consultation with stakeholders has decided to meet international best practices by leapfrogging directly from BS-IV to BS-VI grade by 1<sup>st</sup> April, 2020, skipping BS-V altogether. Oil refining companies are making huge investments in fuel up gradation projects to produce

the BS-VI grade fuels.

Taking into account the serious pollution levels in Delhi and adjoining areas, Petroleum Ministry in consultation with Public Oil Marketing Companies has decided for preponement of BS-VI grade auto fuels in NCT of Delhi w.e.f 01.04.2018 instead of 01.04.2020. OMCs have also been asked to examine the possibility of introduction of BS-VI auto fuels in the whole of NCR area w.e.f 01.04.2019.

This measure is expected to help mitigate the problem of air pollution in NCT of Delhi and surrounding areas."

It is quite clear from the penultimate paragraph of the Press Release that taking into account the serious pollution levels in Delhi as well as in adjoining areas, the Petroleum Ministry in consultation with Public Oil Marketing Companies has decided to make available BS VI grade auto fuels in NCT of Delhi with effect from 01.04.2018.

Learned counsel appearing for SIAM says that his instructions are that this BS VI fuel will not be available in every petrol station in Delhi but in few selected petrol stations.

In view of the categorical statement made by the Press Information Bureau which we take it as the statement on behalf of the Ministry of Petroleum and Natural Gas, we would like to know the correct position on an affidavit to be filed by the Secretary in the Ministry of Petroleum and Natural Gas.

The Ministry of Petroleum and Natural Gas is impleaded as a respondent.

Issue notice to the Ministry of Petroleum and Natural Gas.

Learned standing counsel for the Union of India accepts notice on behalf of the said Ministry.

The learned ASG says that he will convey the contents of this order to the Secretary in the Ministry of Petroleum and Natural Gas.

Affidavit be filed within two weeks.

List the matter on 21.02.2018.

I.A. No. 2733/2018

The prayer in this application is for a direction for the procurement of disabled friendly transport buses.

It is stated that a tender has been floated for the procurement of 10,000 standard floor buses. This issue is stated to be pending before the Delhi High Court.

Under the circumstances, we decline to entertain this application and leave it to the Delhi High Court to pass appropriate directions.

The application is disposed of.

(MEENAKSHI KOHLI)  
COURT MASTER

(KAILASH CHANDER)  
COURT MASTER

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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Petitioner(s)

VERSUS

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Respondent(s)

IN RE: REPORT NO. 72 and 76

REPORT NO. 80 SUBMITTED BY EPCA

WITH

WP (C) NO. 60/2018

Date : 05-02-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Advocate (A.C.) [NP]

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Mr. Akshat Hansaria, Adv.  
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Mr. Pavan Bhushan, Adv.  
Mr. Ritesh Bajaj, Adv.

Mr. Jayant Bhushan, Sr. Adv.  
Ms. Vanita Bhargava, Adv.  
Mr. Ajay Bhargava, Adv.  
Ms. Richa Bhargava, Adv.  
Ms. Shweta Kabra, Adv.  
Mr. Sanjeev K. Kapoor, Adv.  
Mr. Gaurav Juneja, Adv.  
Mr. Navneet Vibhaw, Adv.  
For M/s Khaitan & Co.

WP (C) 60

Mr. Gopal Subramaniam, Sr. Adv.  
Mr. Sanjeev K. Kapoor, Adv.  
Mr. Navneet Vibhaw, Adv.  
Mr. Pawan Bhushan, Adv.  
For M/s Khaitan & Co.

UPON hearing the counsel the Court made the following

O R D E R

REPORT NOS. 72 and 76 [BAN ON SALES AND USE OF FURNACE OIL AND PET COKE IN NCR] AND REPORT NO. 80

The Ministry of Environment, Forests and Climate Change has filed an affidavit in compliance of the order dated 13.12.2017. In response to the affidavit, EPCA has filed Report No.80.

The issues raised are as follows:

(1) Setting emission standards for SO<sub>2</sub>, NO<sub>x</sub> and SO<sub>x</sub> for 23 industries.

It is stated by the learned ASG that SO<sub>2</sub>, NO<sub>x</sub> standards for 5 industries limekiln, glass, ceramic, foundries, re-heating furnaces will be finalized by 31<sup>st</sup> March, 2018 latest.

(2) Ban on import of Pet Coke

It is stated by the learned ASG that there is some expected deficit with regard to availability of domestic pet coke. A final decision is yet to be taken in the matter and consultations on shortage from domestic production are going on with the Ministry of Petroleum and Natural Gas and a decision will be taken within two weeks.

(3) Permitted use of pet coke in certain industries

It is stated by the learned ASG that the use of pet coke in Calcium Carbide based industries may be permitted on the basis of recommendations made by the CPCB. This is acceptable to EPCA.

However, EPCA has suggested that the recommendations need to be implemented constructively and the CPCB should compile all the data with the assistance of all the State Pollution Control Boards (SPCB) of all the industries using Calcium Carbide within a period of four weeks from today. Thereafter, the source of pet coke and its utilization should be monitored on a monthly basis for the first one year with all the details being put up on the website of the CPCB and thereafter monitoring may be carried out on quarterly basis.

Mr. Gopal Subramaniam, learned senior counsel appearing for DCM Shriram Ltd. in Writ Petition (C) No. 60/2018 says that he has no objection to these directions being issued and that all the directions will be complied with.

In view of the above, learned senior counsel does not press the writ petition.

The writ petition (bearing No. WP (C) 60/2018) is disposed of as not pressed.

As far as Aluminium industries are concerned, it is stated by Mr. Jayant Bhushan, learned senior counsel appearing on behalf of Aluminium industries that a representation has been made to the Ministry of Environment, Forests and Climate Change.

The learned ASG says that he is not aware of this. If such a

representation is made, it will be considered.

(4) Natural gas to be made available to power plants in NCR

For the time being, we are confining the orders today to the Bawana Plant Unit I in Delhi. The other issues will be considered on the next date of hearing i.e. 16.02.2018.

It is stated by the learned ASG that MoEF will have detailed discussions with the Ministry of Petroleum and Natural Gas, Petroleum and Natural Gas Regulatory Board, Gas Authority of India Ltd., Pragati Power Corporation Limited and EPCA sometime next week and arrive at a final decision.

As far as Bawana Plant Unit I is concerned, it is stated by the learned ASG that it will start working at its full capacity by 01.03.2018 and necessary steps have already been taken in this regard.

We make the statement of the learned ASG a direction of this Court.

(5) Natural Gas to be made available for power plants and industry

List this issue on 16.02.2018.

(6) Measures to be taken to strengthen distribution of electricity in NCR

It is stated by the learned ASG that communications have been sent to the Ministry of Power and to the three States in the NCR region - Haryana, Rajasthan and U.P. This issue will be addressed

later as and when responses are received by the MoEF.

List this issue on 16.02.2018.

(7) Comprehensive Action Plan for Air Pollution Control for Delhi

It is stated by the learned ASG that the entire plan has not yet been notified. The learned *Amicus* has handed over a note of items on which the Comprehensive Action Plan has not been notified. The learned ASG will take necessary instructions in this regard so that the notification of the plan can be expedited.

He says that discussions will be held with the Ministry of Road, Transport and Highways and other Ministries, if so required.

The notification of the Comprehensive Action Plan should be concluded within a period of three weeks.

This is not applicable to para 2.2.1 to 2.2.2 of the Comprehensive Action Plan.

(8) Comprehensive Plan for other cities with high pollution.

It is stated by the learned ASG that the National Clean Air Programme has been formulated for 100 non-attainment cities. This is up for discussion with EPCA and necessary steps will be taken in due course of time and the National Plan will be notified at the earliest.

List the matter on 08.03.2018.

In the meanwhile, liberty to file affidavits.

(MEENAKSHI KOHLI)  
COURT MASTER

(KAILASH CHANDER)  
COURT MASTER

S U P R E M E C O U R T O F I N D I A  
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Writ Petition(s) (Civil) No(s). 13029/1985

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Petitioner(s)

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UNION OF INDIA & ORS.

Respondent(s)

IN RE: REPORT NO. 73 AND 75 SUBMITTED BY EPCA  
(ON THE ASSESSMENT OF POLLUTION UNDER CONTROL (PUC) PROGRAMME IN  
DELHI AND NCR )

ISSUE OF ON BOARD DIAGNOSTIC

Date : 05-02-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Advocate (A.C.) [NP]

Ms. Aparajita Singh, Advocate (A.C.)

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Mr. Siddhartha Chowdhury, Advocate (A.C.)

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Mr. A.N.S. Nadkarni, ASG

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Ms. Richa Bhargava, Adv.  
Ms. Shweta Kabra, Adv.  
Mr. Sanjeev K. Kapoor, Adv.  
Mr. Gaurav Juneja, Adv.  
Mr. Navneet Vibhaw, Adv.  
For M/s Khaitan & Co.

UPON hearing the counsel the Court made the following

O R D E R

REPORT NO. 73 (REPORT ON THE ASSESSMENT OF POLLUTION UNDER CONTROL (PUC) PROGRAMME IN DELHI AND NCR ) and AND REPORT NO.75 (SUPPLEMENTARY REPORT TO REPORT NO.73)

A Report has been received from ARAI. This Report has been

considered by EPCA and it is recommended that the failure rate of PUC Centres in Delhi is mere 2%. Accordingly, the concerned State Government of Delhi, the National Capital Region and the Ministry of Road Transport and Highways be directed to ensure correct testing of vehicles at the PUC Centres. Accepting the recommendation of EPCA, we direct that the Ministry of Road, Transport and Highways to implement the recommendations of EPCA forthwith.

Report Nos. 73 and 75 are disposed of.

However, a separate note on the issue on On-Board Diagnostics may be furnished by the learned counsel.

Response be given by the Union of India for consideration.

List the matter on 07.03.2018 with regard to On-Board Diagnostics.

(MEENAKSHI KOHLI)  
COURT MASTER

(KAILASH CHANDER)  
COURT MASTER