

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

((1) IN RE: SMOG TOWERS AND STUBBLE BURNING(i) REPORT NO. 106 SUBMITTED BY EPCA (SPECIAL REPORT ON POLLUTION HOT SPOTS IN NCR WITH REQUEST FOR URGENT DIRECTIONS TO IMPROVE ENFORCEMENT AND POLLUTION CONTROL)(ii) IA NO. 127792/2017 (DISPOSED OF) (APPLN. FOR DIRECTIONS FILED BY A.C.)(iii) IA NOS. 158128 AND 158129/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF DR. KAUSHAL KANT MISHRA)(iv) IA NO. 181745/2019 AND IA NO. 46339/2020(APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF HARSHITA SINGHAL)(v) REPORT NO. 110 AND 112 SUBMITTED BY EPCA REGARDING HOSPITAL WASTE MANAGEMENT IN COMPLIANCE OF DIRECTIONS DT. 06.3.2020 AND REPORT ON HOSPITAL WASTE MANAGEMENT FOR COVID-19 IN COMPLIANCE OF DIRECTIONS OF THIS HON'BLE COURT DT. 21.07.2020)(2) REPORT NO. 111 SUBMITTED BY EPCA (REPORT ON PILLING UP OF WASTE/GARBAGE BY THE SIDES OF RAILWAY TRACKS IN DELHI IN COMPLIANCE OF DIRECTIONS OF THE HON'BLE COURT DT. 28.02.2020)(3) IN RE: THREE WHEELERS(i) IA NO. 176097/2018 (APPLN. FOR CLARIFICATION ON B/O BAJAJ AUTO LTD. ALONGWITH REPORT NOS. 95 AND 105 SUBMITTED BY EPCA)(ii) IA NO. 39622/2019 (APPLN. FOR INTERVENTION IN IA NO. 176097/2018 ON B/O PIAGGIO VEHICLES PVT. LTD.)(iii) IA NOS. 72210 AND 72236/2018 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O NYAY BHOOMI)(iv) IA NOS. 119813 AND 119815/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O BHARTIYA TIPAHYA CHALAK SANGH)(v) IA NO. 110238/2019 (APPLN. FOR MODIFICATION OF ORDER DT. 11.11.2011 ON BEHALF OF DELHI METRO RAIL CORPORATION LTD.)(4) IN RE: PARKING POLICY(i) REPORT NO. 104 SUBMITTED BY EPCA (REGARDING PARKING PLANS FOR KRISHNA NAGAR, KAMLA NAGAR, TECHNOLOGY FOR PARKING MANAGEMENT AND PLANS FOR LAST MILE CONNECTIVITY)(ii) REPORT NO. 108 SUBMITTED BY EPCA (REPORT ON STATUS OF IMPLEMENTATION OF PILOT PROJECTS ON PARKING MANAGEMENT AS DIRECTED BY THE HON'BLE SUPREME COURT ON SEPTEMBER 2, 2019)(5) REPORT NO. 109 SUBMITTED BY EPCA (RFID EXTENSION TO ALL ENTRY POINTS IN TO DELHI)(6) IN RE: PET COKE(i) IA NOS. 113743 AND 113750/2019 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O M/S BHARAT ALUMINIUM COMPANY LTD.))

WITH

SMW(C) No. 3/2019 (PIL-W) (FOR ADMISSION)

W.P.(C) No. 1333/2019 (PIL-W)
(FOR ADMISSION and IA No.170316/2019-EX-PARTE STAY and IA No.170317/2019-PERMISSION TO APPEAR AND ARGUE IN PERSON)

T.C.(C) No. 42/2019 (XVI-A)

T.C.(C) No. 41/2019 (XVI-A)

W.P.(C) No. 1426/2019 (PIL-W)
(FOR ADMISSION)

Date : 10-08-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE KRISHNA MURARI

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Mr. Raj Bahadur Yadav, Adv.
Mr. Vibhu Shankar Mishra, Adv.
Mr. Prashant Rawat, Adv.
Mr. B.V. Balram Das, Adv.

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Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
MR. Sanjay Kumar Visen, Adv.

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Mr. Kamendra Mishra, Adv.

Mr. Chandra Prakash, Adv.

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Mr. Siddharth Arora, Adv.
Mr. Rishi Raj Sharma, Adv.
Mr. Sameer Shrivastava, Adv.

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Ms. Jyoti Mendiratta, Adv.

Mr. Mohit Chaudhary, Adv.
Mr. Imran Ali, Adv.
Ms. Puja Sharma, Adv.
Mr. Kunal Sachdeva, Adv.
Mr. Shyam Singh Yadav, Adv.
Mr. Balwinder Singh Suri, Adv.
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Mr. Garima Sharma, Adv.

Mr. Chirag M. Shroff, Adv.
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Mr. Praveen Swarup, Adv.
Mr. Ajay Bansal, Adv.
Mr. Soumo Palit, Adv.
Mr. Amit Singh, Adv.
Mr. Kanishk Chaudhary, Adv.

Ms. Anupama Kumar, Adv.
Mr. Arjun Dewan, Adv.
Mr. Prakash Ranjan Nayak, Adv.

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Mr. Anil Kumar, Adv.

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Senthil Jagdeesan, Adv.

Mr. Sumit R. Sharma, Adv.
Mr. Aakarshan Aditya, Adv.

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Mr. Iqbal Singh Bains, SC(MP)

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Mr. Anand Dubey, Adv.
Mr. Narendra Kumar, Aor

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Mr. Keshav Mohan, Adv.
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Mr. Prashant Kumar, Adv.
Mr. Piyush Vatsa, Adv.
Mr. Santosh Kumar - I, Aor

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Mr. Polanki Gowtham, Adv.
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Mr. Kishan Rawat, Adv.
Mr. Rajan Narain, Aor

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Mr. Shresth Sharma, Adv.

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Mr. Sandeep Kr. Jha, Adv.

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Mr. Nishant Piyush, Advocate
Ms. Tulika Mukherjee, Adv.

Mr. Preetpal Singh, Adv.
Mr. Ranjay Dubey, Adv.
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Ms. Abhilash Bhati, Adv.
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Petitioner-In-Person

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Mr. Sanjay Kr. Visen, Advocate
Mr. Kamendra Mishra, Advocate
Mr. Sandeep Kr. Jha, Advocate
Ms. Uttara Babbar, Advocate
Mr. B.V. Balramdas, Advocate
Mr. Chirag M. Shroff, Advocate
Mr. Praveen Swarup, Advocate
Mr. Abhishek, Advocate
Mr. Senthil Jagdeesan, Advocate
Mr. D.N. Goburdhun, Advocate
Ms. Ruchi Kohli, Advocate
Ms. Divya Roy, Advocate
Ms. Tulika Mukherjee, Advocate
Mr. Santosh Kumar 1, Advocate
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Mr. Tapes K. Singh, Advocate
Mr. Shuvodeep Roy, Advocate
Mr. Narendra Kumar, Advocate
Mr. V.G. Pragasam, Advocate
Mr. M. Shoeb Alam, Advocate
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Mr. Shovan Mishra, Advocate
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Mr. Anuj Bhandari, Advocate
Ms. G. Indira, Advocate
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Mr. Yoginder Handoo, Advocate
Mr. Subhro Sanyal, Advocate
Mr. Gaurav Srivastava, Advocate
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Mr. Rahul Narayan, Advocate
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Petitioner(s)-in-person

Mr. Anilendra Pandey, Adv.

Mr. Gurmeet Singh Makker, Adv.

Mr. Gaurav Sharma, Adv.

Mr. C.K. Rai, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IN RE: SMOG TOWERS AND STUBBLE BURNING

REPORT NO. 106 SUBMITTED BY EPCA

(Special Report on pollution hot spots in NCR with request for urgent directions to improve enforcement and pollution control) IA NO. 127792/2017(DISPOSED OF)

(Application for direction submitted in Court by A.C. on 17.11.2017) IANOS. 158128 AND 158129/2019 (Applns. For intervention and directions on behalf of Dr. Kaushal Kant Mishra)

IN RE : AFFIDAVIT FILED ON BEHALF OF STATE OF PUNJAB

We have heard the Chief Secretary to the State of Punjab and the learned Amicus Curiae appearing in the matter on the following aspects:-

a) With respect to the technology developed by the Agricultural Finance Corporation Ltd., we want to know the exact period which would be consumed for dissolution of the stubble. Let the Government of India and concerned States ascertain the period from the Corporation and file an affidavit in this regard along with the requisite documents obtained from the Corporation.

b) With respect to Cattle Food, we have requested the Chief

Secretary to the State of Punjab to point out a ground level arrangement for collection of stubble which can be used as cattle food.

c) We have requested the Chief Secretary to the State of Punjab to specify where the biomass projects are situated and what is the distance from the hot spots where the stubble burning is taking place. Let the catchment areas in the existing biomass plants be also stated in the affidavit. Let it be specified before the next date of hearing.

d) Let final decision taken by the appropriate High Level Committee with respect to incentives and dis-incentives be stated on affidavit before the next date of hearing.

e) With respect to advertisement issued on 02.8.2020, it is stated by the Chief Secretary that the applications invited are going to be opened on 17.08.2020 and decision is going to be taken immediately.

Let the steps taken in this regard be stated on affidavit before the next date of hearing.

f) Steps taken with respect to dedicated equipments reserved for small and marginal farmers for weeding/cutting of the stubble be indicated on affidavit before the next date of hearing.

g) It is stated by the Chief Secretary that there are eight districts in which hot spots have been identified where the stubble burning took place.

The targets to be achieved be stated on affidavit before the next date of hearing.

h) It is stated in Para 1(e) of the affidavit that PAU, Ludhiana

has issued notice calling for empanelment of firms for supply of machinery and it is in process to complete the given task. Previous empanelment of manufacturers is being continued. Let the steps taken pursuant to the notice issued by PAU, Ludhiana be also stated in the affidavit. List of new manufactures empanelled be also stated before the next date of hearing.

i) A conference was organized to discuss problem. Let the outcome of the Conference held by Department of Agriculture on 07.08.2020 and the decision taken and steps in that regard, if any, be stated on affidavit.

j) In Paragraph 1 (i) of the affidavit, it is stated that the Government of India has since approved a Revised Action Plan of Rs. 250 Crores and revalidation of unutilised fund of Rs. 31.85 Crores pertaining to the year 2019-2020.

Let the plan be placed on record and steps taken for implementation thereof be stated and whether the unutilised fund of the previous year i.e. Rs.31.85 Crores has been utilised this year and/or how it is proposed to be utilised.

k) With respect to involvement of the Panchayat, actual implementation of the various projects and how to prevent the stubble burning and the role assigned to Panchayats be specifically stated on affidavit.

l) Total 7378 Custom Hiring Centers are said to be operating. What is the scheme/arrangement made in those Custom Hiring Centers by the State Government for dedicating certain machines/equipments at the cost of the State, to provide equipments to the small and marginal farmers, be also stated on affidavit.

m) With respect to incentive and dis-incentives to be provided to the farmers, let a firm decision be taken by various stakeholders, including the Government of India, and the arrangements for the fund, be also stated on affidavit.

n) Let the details be given with respect to identification for management of hot spots, as stated in item B(1) of the chart in affidavit dated 07.08.2020 filed on behalf of the State of Punjab, as identified by IIT, Delhi. In case it has not been done, how much time it is going to take for making identification of the hot spots for management of air pollution control, be also stated on affidavit.

o) It is stated in item B(2) of the chart in affidavit dated 07.08.2020 filed on behalf of the State of Punjab that PPCB has identified 2279 industries located in 5 kms of MC limit out of which Board has carried out 2046 visits, approximately 89.77%, and 243 industries have been found non-compliant.

We find mention that 'the action against these industries is under process', is a vague statement made in the affidavit. What action is taken against those industries, when the industries have been found non-compliant by PPCB, be clearly stated industry-wise on affidavit. Details may be obtained from the PPCB and be stated in a tabular form in a separate chart. It may also be mentioned whether those industries have been sealed and if not closed down, what is the deficiency found by the PPCB be also stated in detail.

p) It is stated in item B(3) of the the chart in affidavit dated 07.08.2020 that regular enforcement is being made by the State and necessary challans have been made. Let the details with respect to

the same and action taken be stated in the affidavit.

q) Let the details be submitted with respect to compliance of the SMW Rules, 2016 adopted by all 167 ULBs of Punjab. Adoption of Rules is not going to help out the cause, but the actual implementation. How many ULBs have been implemented and Directives and the Rules on non-compliance be clearly indicated in the affidavit within three weeks.

r) Let the time frame for remaining Honeycomb aerobic compost pits be also stated in the affidavit.

s) With respect to total installed STPs and CETPs, the total requirement and the deficiency in that regard be stated in the affidavit and what is the plan for removing the deficiency in this regard.

Let the time frame to complete the additional STPs and CETPs be also stated in the affidavit.

t) It is stated that notification of State Policy for construction and demolition of waste management is under process. Let the details be given about it as well as how many contractors have been challaned for violation of the Construction and Demolition of Waste Management Rules, 2016.

u) As regards Item No. D(2), details be furnished about the action taken by the ULBs within three weeks from today.

v) As regards Item No. D(3), let the Chief Secretary state as to what is the requirement in the State with respect to existing facilities of Recycling of construction and demolition waste and how much time it will take to complete the pending projects. Let it be stated before the next date of hearing.

IN RE : AFFIDAVIT FILED ON BEHALF OF GOVT. OF NCT OF DELHI

a) Let the Government consider with respect to Kerosene, we have noted from the various affidavits that Kerosene is being burnt in the vehicles. Merely to challan those vehicles and imposing fines is going to be sufficient as burning of Kerosene is most dangerous to the human health, it causes cancer and various other diseases.

It was stated by Mr. Gopal Shankarnarayan, learned senior counsel, that a notification has been issued pursuant to the order passed by this Court with respect to specification of the control area and giving powers of confiscation. Let the number of control areas be specified and notification issued under Section 19 read with Section 20 of The Air (Prevention and Control of Pollution) Act, 1981 be placed before the next date of hearing.

Let Ms. Aishwarya Bhati, learned ASG, take instructions in this regard and file an affidavit. Let EPCA also point out the aforesaid aspects as to how many control areas have been declared under Section 19 read with Section 20 of the Act.

IN RE : ANTI-SMOG GUNS

b) Let details be stated with respect to the compliance of the directions issued by this Court in Delhi and NCR relating to Anti Smog Guns. It was stated that there are 20 operational projects and 13 are yet to comply with it.

Let the details be given of non-compliant projects and action taken.

IN RE : PLASTIC INDUSTRIES

c) With respect to the various affidavits filed in February,

March and on 28.07.2020, we have requested the Chief Secretary pursuant to the order dated 13.01.2020, the actual status as on today and the steps to be taken to take care thereof be placed on record. Let the details be furnished with respect to current position at the ground level before the next date of hearing. Then, we will further hear the Chief Secretary with respect to the compliance of the order dated 13.01.2020.

IN RE : AFFIDAVIT FILED ON BEHALF OF STATE OF HARYANA

Let an affidavit as to the current position be filed before the next date of hearing on the similar terms, as directed above to Delhi and the State of Punjab. We will hear the Chief Secretary to the State on the next date of hearing.

List on 20.08.2020.

IN RE : AFFIDAVIT FILED ON BEHALF OF UTTAR PRADESH

Let details be furnished with respect to the current position, as ordered above in the case of Delhi/State of Punjab. We will hear the Chief Secretary to the State on the next date of hearing.

Let an affidavit be filed on behalf of NOIDA/Greater Noida, as requested by Mr. Ravinder Kumar, learned counsel, during the course of the day and we will consider it on the next date of hearing.

List on 20.08.2020.

SMOG TOWERS

The matter of Smog Towers be taken up tomorrow i.e. on

11.08.2020. Let a copy of the affidavit filed on behalf of the MoEF be furnished to Mr. Sanjiv Sen, learned senior counsel appearing on behalf of the IIT, Bombay.

I.A. No. 158129 of 2019

The prayer made in the additional affidavit dated 06.08.2020 opposing installation of smog towers on trial basis is found to be totally meritless. The prayer made is totally impermissible and is, in fact, intending for recall of the order passed by this Court. The prayer is rejected.

I.A.No. 158129 of 2019 is hence dismissed.

IA NOS. 181745/2019 AND 46339/2020 (Applications for Intervention and Directions on behalf of Harshita Singhal)
WITH REPORT NO. 110 & 112 SUBMITTED BY EPCA

We have gone through the affidavit filed by the Municipal Corporations as well as by the State of Rajasthan with respect to the management of bio-medical waste. We want to know factual data as to how much collection has been made from the home quarantine persons and how it has been actually segregated and how much quantity has been collected so far as well as in the area which are declared to be containment zone and about the mode of collection of waste and method of segregation, before the next date of hearing.

Let the Municipal Corporations verify and file an affidavit in this regard.

List on 20.08.2020.

REPORT NO. 111 SUBMITTED BY EPCA

Ms. Aishwarya Bhati, learned ASG, has prayed for time to

obtain instructions from the Railway with respect to the removal of the garbage from the sides of the Railway Tracks.

Let a affidavit be filed by a responsible Secretary/Joint Secretary of the Railways in this regard by 18.08.2020.

Let concerned Corporations also respond to the same.

List on 20.08.2020.

IN RE: THREE WHEELERS IA NOS. 176097/2018, 39622 /2019, 72210/18 & 72236/18 AND 119813 & 119815/2019 AND 110238/2019 WITH REPORT NO. 105 SUBMITTED BY EPCA

With respect to three wheelers, let fresh/additional report be filed by EPCA, as prayed for by Ms. Aparajita Singh, learned Amicus Curiae.

List on 20.08.2020.

IN RE: PARKING POLICY REPORT NO. 104 SUBMITTED BY EPCA (Regarding parking plans for Krishna Nagar, Kamla Nagar, Technology for parking management and plans for last mile connectivity) WITH REPORT NO. 108 SUBMITTED BY EPCA

With respect to Parking Policy, this Court has passed an order on 02.09.2019. Parking plans for Krishna Nagar, Kamla Nagar and Lajpat Nagar were taken as pilot projects. It is stated by EPCA in its report that pilot projects are working satisfactorily. Now the learned Amicus Curiae has submitted that the plan is required to be approved for various other places in Delhi and NCR.

Let the five Corporations of Delhi work in collaboration with EPCA and concerned authorities of NCR to form a detailed plan and a concrete decision be taken in this regard in formulation of the policy. Let the policy be finalised as far as possible before the

next date of hearing.

List on 20.08.2020.

REPORT NO. 109 SUBMITTED BY EPCA (Regarding RFID extension to all entry points into Delhi)

It is submitted that as to pollution impact of the reduction in truck entry, the following is the report submitted by the EPCA :

“Pollution impact of the reduction in truck entry”

EPCA in its report in October, 2015 had estimated the pollution impact of the truck entering Delhi each night. This was done by estimating the number; age; category and emission factors for the vehicles.

EPCA has now estimated the reduction in pollution load, based on the reduction in the numbers of vehicles entering from the 13 points and also because of the age limit (less than 10 years) that is being enforced through the RFID pre-registration. The results from the 13 points is substantial and suggests that the efforts to mitigate pollution have been rewarded.

There is a 95 per cent reduction in the total particulate load from trucks entering from 13 locations, as compared to 2015. There is 87-94 per cent reduction in NOx loads from light-heavy duty vehicles entering from 13 locations.

To assess the impact of reduction in number of entering goods carries EPCA compared SDMC data for the period 1st Dec 2019 to 1st Jan 2020 with a set of survey data conducted during June-July 2015 of major entry points.”

It is agreed to by the learned counsel appearing for EPCA and the Municipal Corporation that on all the 113 entry points, RFID should be implemented and that can be done within the budget which is available.

Let the steps be taken in this regard for implementation of the RFID and plan be placed on record before the next date of hearing.

List on 20.08.2020.

IN RE: PET COKE IA NOS. 113743 AND 113750/2019
(Applications for impleadment and Directions on behalf of M/s Bharat Aluminum Co. Ltd.)

Let M/s Bharat Aluminum Co. Ltd. submit what was the quantity mentioned in its claim made earlier in the application for distribution on the basis of which such distribution was decided.

Let an affidavit be filed by 18.08.2020 in this regard.

List on 20.08.2020.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
ASSISTANT REGISTRAR