

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 514/2018  
(Earlier O.A. No. 415/2015)

Vivek Kamboj & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 05.03.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

For Respondent (s): Dr. Abhishek Atrey, Advocate with Mr. Arvind Nautiyal, Joint Secretary, MoEF&CC  
Mr. Anil Grover, AAG, Mr. Rahul Khurana, Advocate, Mr. Yashpal, Commissioner, MCG and Ms. Sonia Dukan, Independent Expert  
Mr. Rajkumar, Advocate for CPCB  
Mr. Pardeep Dahiya and Mr. Rohan Gupta, Advocates for R-11

**ORDER**

1. In pursuance of order dated 01.03.2019, Commissioner, Municipal Corporation, Gurgaon, Joint Secretary, in-charge of Environmental Clearance (EC) in MoEF&CC and representative of M/s Eco-green Energy Gurgaon Faridabad Pvt. Ltd. are present in person.
2. According to the representative of the MoEF&CC, the Terms of Reference (ToR) will be finalized by tomorrow i.e. 06.03.2019. The project proponent states that their response will be filed by 31.03.2019. The issue of appraisal by EAC may be finalized before 30.04.2019 and the issue of grant or refusal of EC be finalized within three months from today.
3. Attention of the Commissioner, Municipal Corporation Gurgaon has been drawn to the timelines laid down under the Solid Waste Management Rules, 2016 particularly serial number 7 of table in

Rule 22, requiring setting up of solid waste processing facility within two years which is still not shown to have been done. Attention has also been drawn to Rule 24 (2) requiring furnishing of annual report on or before 30<sup>th</sup> June every year by every local body to the State PCB about which the officer is unable to make a statement.

4. As found in our order dated 01.03.2019, based on the material on record, damage to environment is taking place by contamination of ground water on account of leachate discharge. Wildlife and inhabitants are being affected in terms of health by air pollution, by burning of waste or foul smell for which penal action including prosecution and recovery of actual damages are required, apart from remedial measures. The Commissioner is not aware of any penal action having been taken against anyone so far by way of prosecution or recovery of actual damages. This may show failure of duties of the statutory authorities in breach of rule of law and trust reposed by law on the authorities.

5. According to a report, Gurgaon has an average air quality index of 135.8 which makes it most polluted city<sup>1</sup>. This Tribunal has repeatedly noted the reports that the state of environment is under threat which puts at peril human life and public health.<sup>2</sup> Preventive and remedial measures have to be undertaken accordingly.

6. Let the Commissioner file an action plan of the proposed action preventive and remedial to be taken in terms of the Rules within

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<sup>1</sup> <https://www.cnn.com/2019/03/04/health/most-polluted-cities-india-china-intl/index.html>

<sup>2</sup> As per some studies (the Lancet Commission Report on Pollution and Health) 2.51 million that took place in India in 2015, ranking India No. 1 in pollution related deaths. Pollution has been responsible for the most non-communicable disease deaths. In 2015, all forms of pollution combined were responsible for 21% of all deaths from cardiovascular disease, 26% of deaths due to heart disease, 23% due to stroke, 51% to chronic obstructive pulmonary disease, and 43% due to lung cancer. Pollution was also responsible for these times as many deaths as AIDS, tuberculosis, and malaria combined. <http://www.thehindu.com/sci-tech/energy-and-environment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>

one week. In view of the serious defaults which have already taken place, action may have to be taken for the failure of the authorities which may be determined after considering the action plan which may be submitted. A joint Committee of CPCB, IIT Delhi and NEERI may determine the extent of damage in monetary terms and assess the cost to be incurred for restoration of environment within one month and furnish report by e-mail at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com). CPCB will be nodal agency.

List for further consideration on 14.03.2019.

The report received from CPCB be listed for consideration on 23.04.2019.



Adarsh Kumar Goel, CP

Raghuvendra S. Rathore, JM

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Dr. Satyawan Singh Garbyal, EM

March 05, 2019  
Original Application No. 514/2018  
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