

CORRECTED

ITEM NO.302

COURT NO.3

SECTION PIL-W

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) 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)

(2) IN RE: STUBBLE BURNING AND SMOG IN DELHI(i) IA NO. 127792/2017 (DISPOSED OF) (APPLN. FOR DIRECTIONS FILED BY A.C.)(ii) IA NOS. 158128 AND 158129/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF DR. KAUSHAL KANT MISHRA) AND DIRECTIONS ON BEHALF OF INDIA TRADE PROMOTION ORGNISATION)(iii) IA NO. 181745/2019 (APPLN. FOR INTERVENTION ON BEHALF OF HARSHITA SINGHAL)

(3) IN RE: ALLOCATION OF NATURAL GAS TO M/S INDRAPRASTHA GAS LIMITED

(i) I.A. NOS. 250-251/2005 (FOR STAY ON BEHAL OF INDRAPRASTHA GAS LIMITED)

(ii) I.A. NO. 266/2005 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(iii) I.A. NO. 346/2013 (FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)

(iv) I.A. NO. 73432/2017 (FOR INTERIM STAY AND DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(v) I.A. NO. 104664/2017 (APPLICATION FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)

(vi) I.A. NO. 131093/2017 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(vii) I.A. NO. 23814/2018 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(viii) I.A. NO. 72559/2018 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(ix) I.A. NO. 131352/2018 (APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(x) IA NO. 26454/2019 (APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)

(xi) IA NO. 137920/2019 (APPLN. FOR INTERVENTION IN IA NO. 26454/2019 ON B/O TORRENT GAS PVT. LTD.)

(xii) IA NO. 139254/2019 (APPLN. FOR INTERVENTION IN IA NO. 26454/2019 ON B/O GUJARAT GAS 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 : 28-02-2020 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE DEEPAK GUPTA

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the parties

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Ms. Uttara Babbar, Adv.
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Mr. Manan Bansal, Adv.

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Mr. Shyam Divan, Sr. Adv.

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

I.A.No. 176097 of 2018

This application was mentioned today.

List the application after 15 days.

I.A.No. 9931 of 2020 (Delhi Metro Rail Corporation)

This application was mentioned today.

List the application on 06.03.2020.

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)

IN RE : STUBBLE BURNING AND SMOG IN DELHI

I.A.NO. 127792/2017 (DISPOSED OF)

(APPLN. FOR DIRECTIONS FILED BY A.C.)

I.A.NOS. 158128 AND 158129/2019

(Applns. For Intervention And Directions On Behalf Of Dr. Kaushal
Kant Mishra)

IN RE : COMPLIANCE OF ORDER DATED 13.01.2020

DELHI

We have considered the compliance affidavit filed by GNCTD pursuant to the order dated 13.01.2020.

With respect to the major polluting activities on the identified Hot Spots, details have been furnished by the Government of NCT of Delhi with respect to the job done so far. The Hot Spots mentioned in the affidavit are Jahangirpuri, Rohini, Bawana, Ashok Vihar & Wazirpur, Vivek Vihar, Anand Vihar, Punjabi Bagh and Mundka, Narela, Okhla, Dwarka, Mayapuri and R.K.Puram. But it lacks the aspect of what is the target and what more is required to be done and the continuous process and the means available and action taken so that the same do not remain as such.

With respect to segregation of waste, it has been stated that municipal bodies of NDMC and Delhi Cantonment Board have achieved the complete segregation waste and its handling. We require the New Delhi Municipal Council and EDMC, SDMC, North Delhi Municipal Corporation and Delhi Cantonment Board to file details as to what they have done. We also direct the Chief Secretary to the Govt. of NCT of Delhi to provide in detail, on affidavit, about what has been done for complete segregation of waste and its handling and what is the basis of making this statement in the affidavit and the facilities provided for the purpose of segregation of waste.

With respect to Anti Smog Guns, the Chief Secretary has to explain about what has been achieved so far and the concrete plan of the Government of NCT of Delhi and what it proposes to do at its own level to arrange them. It cannot be said to be the compliance of the order that certain correspondence has been exchanged by the Government of NCT of Delhi and NHAI and NBCC etc. Needful is

required to be done forthwith. Let it be done by all concerned viz. NHAI, NBCC and Government of NCT of Delhi within a period of 15 days from today and action taken report be submitted to this Court.

With respect to Smog Tower, let the work be started forthwith and a report be submitted to this Court on 06.03.2020.

With respect to Construction and Demolition Waste Management, it has been stated in Paragraph 7 of the Affidavit that with respect to the existing and proposed processing facilities, it is expected that the entire Construction and Demolition Waste generated in Delhi will be managed properly, but details have not been given within how much time the proposed expansion for additional waste processing capacity is going to be achieved and what are the steps taken for that. Let details be furnished in this regard on the next date of hearing.

With respect to the Solid Waste Management, it has been mentioned at Paragraph 8 of the Affidavit that Solid Waste Generation is 10500 tonnes per day, which is required to be disposed of as per the Solid Waste Management Rules, 2016. The Solid Waste of 5250 TPD which is about 50% of the total solid waste generated is being processed in a scientific manner in three Waste to Energy (WTE) Plants at Okhla, Ghazipur and Bawana. For processing TPD, a Plant is proposed to be established at Tehkhand and for 2000 TPD at Ghonda Gujran as Joint Venture between East Delhi Municipal Corporation and NTPC. Apart from that, one engineered sanitary landfill has been proposed to treat 2000 TPD of

waste at Tehkhand. However, details have not been furnished what steps have been taken to establish these two Plants. Let the details be submitted with respect to establishment of the two Plants as also with respect to the engineered sanitary landfill, by the next date of hearing.

Let the details be furnished with respect to Sewage Plants commissioned and the Plants which are being commissioned and how much time it will take for the commissioning of these Plants, as stated in paragraph 8 of the affidavit.

It is stated that with respect to Legacy Waste, National Green Tribunal is monitoring and has passed certain orders. It is assured that the orders are being complied with. Let the orders of NGT be complied with in pith and substance by all concerned.

EPCA has given Report No. 106. Various aspects have been mentioned in Paragraph 9 of the affidavit, which includes monitoring of industrial areas for air polluting units, Punjabi Bagh Cremation Ground, awareness of public and attendants, about the benefits of cremation using CNG, installation of scrub system on pilot basis at conventional cremation ground etc.

Let EPCA look into the above aspects and respond by the next date of hearing.

With respect to further action on vehicles plying on Kerosene, let action be taken and a report be submitted to this Court within three weeks from today.

Regarding Random checking on Water Quality, we find that there are serious kind of conflicts between the report submitted by Bureau of Indian Standards (BIS), Delhi Jal Board (DJB), DPCC and

NEERI. In the circumstances, we request the Central Pollution Control Board (CPCB) to take the samples from various places and submit a report to this Court within 15 days. Apart from that, we request the BIS, Government of NCT of Delhi and CPCB to suggest the measures in case any pipelines are required to be replaced and at the point from the supply is made, whether water is being treated properly or not. Let a report be filed with respect to the same in this Court as to before supplying the water, what kind of treatment is given and who is supervising it. Let all the details be furnished within 15 days. Let CPCB involve one of the persons from BIS and representative of DJB at the time of collection of samples.

Regarding control of Dust and Carpeting, we request the Chairman, EPCA to examine this aspect and submit his response to this Court as to what has been done and what more is required to be done, within three weeks from today.

With respect to Paragraph 13 of the affidavit regarding solving traffic congestion, a detailed proposal has been submitted. Let its implementation and result be reported to this Court by the next date of hearing i.e. 06.03.2020.

We have perused the counter affidavit dated 26.02.2020 filed on behalf of Ministry of Agriculture and Farmers Welfare. With respect to In-situ Management of Crops Residue, the following facts have been averred in the affidavit :-

"I. In-Situ Management of Crops Residue

a) The existing Central Sector Scheme on 'Promotion of Agricultural Mechanization

for In-Situ Management of Crop Residue in the States of Punjab, Haryan, Uttar Pradesh and NCT of Delhi' which is up to March 2020, is proposed to be continued during 2020-21 with appropriate modifications and a tentative budgetary provision of Rs. 600 crores (100% Central grants) have been made for 2020-21. Necessary approvals for continuation of the scheme during 2020-21 are being processed.

Under this Scheme, the agricultural machines and equipments for in-situ crop residue management such as Super Straw Management System (SMS) for Combine Harvesters, Happy Seeders, Hydraulically Reversible MB Plough, Paddy Straw Chopper, Mulcher, Rotary Slasher, Zero Till Seed Drill, Rotavators, Super Seeder and Self-Propelled/Tractor Drawn Crop Reaper/Reaper cum Binders will be provided to the farmers on individual ownership basis at 50% subsidy.

Establishment of Custom Hiring Centres to make available the agricultural machines and equipments to the small and marginal farmers on resonable rent will be promoted by way of providing 80% subsidy for purchase set of machines costing upto Rs. 5.00 Lakhs to each Village Panchayats and Primary Agriculture Cooperative Societies (PACS) and Farmers Produce Organisation (FPOs) where the paddy straw burning has happened during past year may and no custom hiring centre has been

established in the concerned village during the past two years.

b) The Department has developed a multi-lingual mobile app-based aggregator platform 'CHC Farm Machinery' which facilitates hiring and renting of farm machinery from and by the Custom Hiring Centres/owners of the farm machinery. This mobile app encompasses a fair and transparent rental process while focussing on quality, dependability and timely delivery of the services. So far 2954 service providers from Punjab, 2356 from Haryana and 3672 from Uttar Pradesh have registered on this Mobile app to provide farm machinery and equipments to the farmers on competitive rent. The mobile app will be further popularized and extensively used for optimum utilization of agricultural machines available with the Custom Hiring Centres for the benefit of small and marginal farmers. The rental charges for different machinery will be rationalised by the State Governments across the State.

c) The Information, Education and Communication (IEC) activities plays a significant role to educate farmers about the ill effects of the crop residue burning and advantages of in-situ and ex-situ management options. The IEC activities for mass awareness and educating the farmers may be taken up vigorously with the involvement of various stakeholders including village

cooperatives and social organisations which will include Demonstrations on Farmers fields, training of farmers, mass media campaign through electronic and print media, award to village Panchayats for achieving zero stubble burning, conferences, kisan melas etc. An amount of Rs. 100 crores will be earmarked towards IEC activities proposed to be carried out during 2020-21."

With respect to Ex-Situ Management of Crops Residue, the following facts have been averred in the affidavit :-

*"(II) Ex-Situ Management of Crops Residue:-
(a) The Central Government through Ministry of Petroleum and Natural Gas has already approved National Policy on Biofuels - 2018. Indian Oil Corporation had signed an MoU with Punjab Energy Development Agency (PEDA) for setting up 400 CBG projects. Rika Biofuel Development Limited signed the MoU on May 11, 2018 through Invest Punjab, which would invest Rs. 700 crores in Punjab to set up Biogas/Boi CNG plants. Oil PSUs have also launched 'Sustainable Alternative Towards Affordable Transportation' i.e. 'SATAT' initiative on 1st October, 2018. Under this initiative, IOCL, HPCL, BPCL, GAIL and IGL from potential entrepreneurs for establishment of 5000 CBG plans across the country with an estimated production of 15 MMT CBG per annum by 2023. Oil PSUs have offered Rs. 46/- per kg delivered price for procurement of CBG. The CBG, so procured,*

will be supplied to transport sector and industries from the channels of Oil PSUs. However, the logistics for collection and transporting large volumes of straw represents a major cost factor irrespective of the technology. Looking into this, the Department of Agriculture, Cooperation and Farmers Welfare under the Scheme 'Sub-Mission on Agricultural Mechanisation (SMAM)' is providing subsidy @ 40% of the cost for purchase of balers which is used for collection of straw in the form of bales that makes transportation and storage easier. The SMAM scheme is also implemented in the States of Punjab, Haryana and Uttar Pradesh and the Department of Agriculture & Farmers Welfare, Punjab has provided subsidy to Farmers/Farmer Groups for purchase of 188 Balers. The Government of Haryana has also supplied 90 balers. The Department will be continuing the Scheme in 2020-21 and additional requirement of balers in these States may be met from the funds allocated under for 2020-21."

With respect to Administrative Measures, the following averments are made in the affidavit :-

"(III) Administrative Measures :

(a) The State Government have been advised to take all necessary administrative measures to control burning of paddy residues such as strict enforcement of provisions under Section 19(5) of the Air (Prevention & Control of Pollution) Act, 1981, including enforcement of the directions

passed by NGT, mandatory fitting of SMS on Combines, dis-incentivizing the farmers from the Government assistance & red entry in Khasra Girdawari, close monitoring of the fire events at village levels and any such administrative measures within the delegated powers of the District Commissioners and State Level authorities.

(b) As far as providing incentive of Rs. 100 per quintal of paddy produced to those farmers who will not burn paddy residue is concerned, the issue has been earlier examined in consultation with the Commission for Agricultural Costs and Prices (CACP) and found that the inclusion of cost of stubble removal in the MSP may not be a viable option as it will not help those farmers who are not getting the benefit of MSP and also create price distortion in the market. The issue has been suitably clarified to the Government of Punjab. Any such incentives, if at all necessary, should be provided by the State Governments from their own budget as has been done during the last year by the Government of Punjab and Haryana."

Let the States of Punjab, Haryana, Uttar Pradesh and the Ministry of Agriculture file an action taken report with respect to the aforesaid aspects within 15 days from today.

List after 15 days.

HARYANA

We have considered the affidavits dated 12.12.2019, 13.01.2020 and 26.02.2020. Let the State of Haryana state on affidavit, as to

what has happened to its communication dated 30.12.2019. We request Mr. A. N. S. Nadkarni, learned ASG, to look into the aspect and inform the decision taken by the Central Government on 30.12.2019 and 20.02.2020. The concrete action taken with respect to the plant in Faridabad, Gurugram, Sonapat, Panipat, Jhajjar and budget allotted for that purpose be stated in detail.

Let the Government of Haryana file an affidavit with respect to the installation of STPs and CETPs. What is the total requirement besides those STPS and CETPS which have been installed, what more is required to be done and funds required therefor and what is the action plan with respect to the remaining requirements. With regard to the functioning of existing STPs and CETPs, a report be submitted to this Court.

With respect to Water Pollution Policy on reuse of treated water, it is stated that the State has notified the policy on 30.10.2019 for 80% collection of sewage in all towns in the State, 100% treatment of collected sewage and at least 25% reuse of treatment waste water in two years, 50% by 2025 and 80% by 2030. What are the steps taken for 80% collection of the sewage in all towns and 100% treatment of collected sewage be clearly culled out and the time frame required for that purpose.

It is stated in the affidavit and particularly in view of the status of implementation of Key Parameters of Solid Waste Management in Annexure R/12, that various decisions have been taken. Meetings have been held. However, it is required to be stated that concrete steps have been taken by the various bodies in the various districts pursuant to the meetings which have been held

and what is the total waste being generated and the action taken so far on the basis of the decisions which have been taken is also required to be informed to this Court. Only identification of the issues is not going to solve the issue, actual implementation is necessary. Let action taken report be submitted and details be furnished as to the existing facilities viz-a-vis to total solid waste generated and how the deficit facilities are going to be completed and in what manner and the time frame thereof. List along with the information after two weeks.

PUNJAB

With respect to stubble burning, an affidavit has been filed by Mr. Karan Avtar Singh, Chief Secretary to the State of Punjab, pointing out that 3 Biomas plants for 46 MW of electricity, 8 Bio-CNG projects, 1 Bio-ethanol project, are under execution, of which details have been given. However, time frame for completion of such projects and the present stage have not been stated in the affidavit. Let that be clearly stated by filing an affidavit. Apart from that, it appears that the Department of New and Renewable Energy, Punjab vide letter dated 12.12.2019 has written to the Ministry of New and Renewable Energy, Government of India for Viability Gap Funding (VGF) support @ 5 Crores per MW for installation of at least 300 MW capacity Bio Mass Power Projects. Another letter dated 26.12.2019 has been written to the Ministry of Petroleum and Natural Gas, Govt. of India for development of Bio CNG in Punjab and long term Bio CNG off-take agreement assurance for minimum period of 20 years. However, it has not been stated as

to what is the outcome of the communications.

We request Mr. Nadkarni to obtain instruction with respect to the outcome of the aforesaid communications from the concerned Ministries and to inform this Court. We direct the Punjab Government to inform as to what action has been taken on these communications by the concerned Ministries.

With respect to water pollution, an action plan has been prepared for the polluted river stretches of Sutlej (Roopnagar to Harike Bridge), Ghaggar (Mubarakpur to Sardulgarh), Kali Bein (Sultanpur Lodhi to confluence point of Beas) and Beas (along Mukerian). It has been stated that the plan has been approved by CPCB.

It is required to be stated as to what is the further requirement and the arrangements for that be also clearly culled out in detail. It appears that the facility for installed capacity to treat sewage generated in the State is 73.72%. It is stated that the new plants are being being created to treat the sewage.

Let the total requirement for STPs and CETPs be culled out and how much time is required to set up the STPs and CETPs be also stated in the affidavit.

With respect to quantity of sewage generation, it is pointed out in the affidavit that out of total 2478 million liters per day (MLD), 1872 MLD (73.2%) is being treated in the Sewage Treatment Plants. New Sewage Treatment Plants are being set up and existing plants are being upgraded in the State. The time frame for completion has been fixed as 30.09.2022. Let separate time limits be culled out for operation of the new treatment plants and what is

the stage of establishment of these plants and the steps taken in this regard so far be also stated.

Regarding the hotspots and the air quality, let a fresh report be filed with respect to the AQI.

IN RE : PILING UP OF WASTE/GARBAGE BY THE SIDES OF RAILWAY TRACKS IN DELHI

We take judicial notice of the fact that by the sides of the railway lines in outer Delhi region, heaps of plastic bags and garbage are lying on both sides and people living in the slums. The situation is pathetic. We request EPCA, Government of NCT of Delhi and various Municipal Corporations to make a concrete plan for removal of the plastic bags, garbage and other waste materials lying on both the sides of railway lines for several kilometers together. The same has to be taken care of on a war footing basis and steps have also to be taken so that in future, no such garbage is dumped/collected. What steps are to be taken in this regard be culled out within 15 days. Let a joint meeting be held by all the stakeholders and a comprehensive action plan and the time frame be submitted to this Court. It may also be considered whether any incentive can be provided for collection of plastic bags as done in Himachal Pradesh. They provide Rs. 75/- per kg for such collection.

HIMACHAL PRADESH

An affidavit has been filed by the State of Himachal Pradesh. However, it is noted that in Shimla, due to impure supply of water,

several diseases are spreading due to contaminated water supply. Let the concerned Municipal Body of Shimla as well as the concerned Department of the Government of Himachal Pradesh submit a concrete action plan with respect to the improvement of quality of water supply. In case pipelines are required to be changed, let concrete action plan be submitted to this Court. The water quality, which is being supplied, be checked every week and a report be filed to this Court whether the water is potable or not and what is being done to ensure that pure water is supplied to the inhabitants of not only Shimla but to the inhabitants of other places also.

We request the other States and Union Territories like Uttar Pradesh, Chandigarh, Mizoram, Andaman & Nicobar Islands, Goa, Tamil Nadu, Bihar, Karnataka, Manipur, Sikkim, Nagaland, Assam, Jammu & Kashmir, Jharkhand, Kerala, to file their respective affidavits, in a tabular form, to this Court pointing out in separate columns (1) the activities; (2) capacity of projects/units (existing and required), (3) steps taken to fulfill the requirement, status of various pending projects and (4) expected commissioning dates of the projects which are being undertaken and (5) the present stage thereof.

I.A.No. 181745 of 2019

While considering the aforesaid I.A., with respect to bio-medical waste, we find that the situation is extremely grave and bio-medical waste may lead to several kinds of diseases and so many other problems. It is required to be taken care of at once. The bio-medical waste has to be taken care of scientifically as per

rules. There are various photographs from different sites, which have been filed along with the application from Page 43 onwards. The satellite images have also been annexed at pages 35 and 36.

The following facts have been stated in the application at Paragraph 5 :

"5. That on 31.10.2019, the Applicant discovered a large pile of garbage, on a perceptibly large portion of land near a visibly forested area in New Delhi had been set ablaze. This discovery was made from inside an aircraft (Indigo Airlines 6E 5024) that was about to land at Terminal 3 in New Delhi. Upon closer scrutiny, it emerged that the garbage which was on fire was in a settlement called Rangpuri adjacent to the Rangpuri Reserved Forest which is less than two kilometers south of the Terminal 3 airport runway (when measured from the National Highway-8).

6. XXXXX

7. That, it was while landing in New Delhi at about 8.40 p.m. on 31.10.2019, at Terminal 3, she observed that the thick smoke emanating from the burning ground was being fueled by plastics, possibly rubber and other municipal waste (the heaps of garbage - semi burnt and burnt were quite evidently visible). That, upon further investigation using the Google Maps software as a location tool, the satellite images clearly revealed large patches of scorched land near the Ruchi Vihar (Rangpuri). The area abutting the 'garbage-

pits' are "Ruchi Vihar" and "Milakpuri Kohi" within the Rangpuri Pahari which appears to be adjacent a Reserved Forest as per Notification daed 02.04.1996 of the Revenue Department bearing Notification No. FI(29)/PA/DC/95 published in the Delhi Gazette."

Let the Chairman, EPCA submit a report on the above aspect. The learned counsel appearing for the Government of NCT of Delhi has assured us that action is going to be taken very soon. Let the action be taken and a report and the plan in detail be submitted to this Court to take care of the bio-medical waste, by the next date of hearing. The South Delhi Municipal Corporation (SDMC) shall also coordinate with the Government of NCT of Delhi.

It is submitted that the bio-medical waste is being dumped by Fortis Hospital, Vasant Kunj, and Indian Spinal Injuries Center, Vasant Kunj. Let notices be issued to the above hospitals forthwith and reply be filed by 06.03.2020.

We request the Chairman, EPCA to identify such other hospitals which are dumping bio-medical wastes at other spots and submit a report to this Court.

List the matter on 06.03.2020.

IN RE : ALLOCATION OF NATURAL GAS TO M/S INDRAPRASTHA GAS LIMITED

List on 09.04.2020.

(JAYANT KUMAR ARORA)
COURT MASTER

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER