

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) 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

(2) IA NO. 127792/2017 (DISPOSED OF) (APPLN. FOR DIRECTIONS FILED BY A.C.)

(3) IA NOS. 158128 AND 158129/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF DR. KAUSHAL KANT MISHRA)

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)

Date : 15-11-2019 These matters were called on for hearing today.

CORAM :

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

Counsel for parties

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Ms. Archana Pathak Dave, Adv.  
Mr. G.S. Makker, Advocate  
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Ms. Aditi Tripathi, Adv.

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Mr. Sayan Ray, Adv.  
Mr. Soumo Palit, Adv.  
Mr. Ajay Bansal, Adv.  
Mr. Harsha Peechara, Adv.  
Mr. Suvesh Kumar, Adv.

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Chirag M. Shroff, Advocate  
Mr. Jyoti Mehndiratta, Adv.  
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Ms. Yashika Verma, Adv.  
Ms. Riya Thomas, Adv.

Mr. Anil Grover, AAG  
Dr. Monika Gusain, Adv.  
Ms. Noopur Singhal, Adv.  
Mr. Rahul Khurana, Adv.  
Mr. Satish Kumar, Adv.  
Mr. Sanjay Kr. Visen, Advocate

Mr. Charanpal Singh Bagri, Adv.  
Mr. Gurjit Kaur, Adv.  
Mr. Anilendra Pandey, Adv.

Mr. Vijay Panjwani, Adv.

Mr. Pradeep Misra, Advocate  
Mr. Suraj Singh, Adv.

Ms. Ruchi Kohli, Advocate

Petitioner-In-Person

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

A joint affidavit on behalf of Ministry of Environment, Forest and Climate Change and Central Pollution Control Board has been given in Court today along with some letters one of which was sent to Department of Science and Technology dated 31.10.2019 (Annexure R/3) regarding establishment of towers to remove pollution but a final decision is required to be taken on the said proposal. The above affidavit is taken on record.

As prayed, let a decision in the matter be taken within seven days from today.

With respect to Project Vayu, let the concerned stake holders file their response as to how much time will be taken to note the results of the trial and the minimum period required for that. The requisite affidavit be filed within seven days.

We have heard Member Secretary, Central Pollution Control Board (CPCB) and other senior counsel/counsel appearing for the parties. The Member Secretary, CPCB has pointed out that pollution caused due to stubble burning has been reduced to approximately 5%, however, residue remains of the previous stubble burning that is

also adding to the pollution.

It was also pointed out that vehicular pollution adds to 28% of the total pollution of Delhi. Out of that 8% is created by trucks, 1% by tractors, 3% by buses, 3% by cars, 7% by two-wheelers, 5% by three-wheelers, 1% by LCVs. He has pointed out that odd-even scheme is applied to the cars only, which contribute only 3% out of 28% of the total pollution caused by the vehicular traffic in Delhi. Mr. Mukul Rohatgi, learned senior counsel has also pointed out that applying odd-even scheme with respect to cars cannot be said to be a wholesome solution. However, in the absence of the effective public transport, two-wheelers and three-wheelers plying has not been stopped.

Another factor which is important for causing environmental pollution in Delhi and NCR region is said to be construction activities. Agricultural burning is adding to 4%, industries 30% and the residential sector in the form of Bio Mass, Kerosene and LPG is adding to 10% in total.

It was also pointed out that there are complaints that some vehicles are plying illegally using kerosene in Delhi/NCR and Delhi Pollution Control Committee (DPCC) has power and authority to check such use in Delhi. The DPCC can do the needful in the matter. We direct DPCC to ensure the random checking is done of three wheelers as well as vehicles which are being used in Delhi by corporations as well as other such bodies etc. as to what kind of fuel is being used. In NCR region concerned pollution control bodies to do the checking. In case it is found that Kerosene is used not only the concerned driver/owner shall be responsible but the officers of the

Department shall also be held responsible for using the kerosene oil. Let random checking be done of as many vehicles as possible and a report be submitted to this Court within seven days, of the checking done in this regard.

It was also pointed out by the Member Secretary, CPCB that there are 13 hot spots which have been identified in Delhi and there were several other spots in NCR which were also pointed out in the order dated 06.11.2019. Some steps have been taken to take care of those hot spots but lot of steps remain to be done. Let the effective steps be taken so as to remove the pollutants from the hot spots as ordered by this Court. Hot spots be cleared of the pollutants within a week, which is a reasonable period as stated by the Member Secretary, CPCB and compliance affidavit be filed.

We have asked Mr. Mukul Rohatgi, learned senior counsel appearing on behalf of the NCT of Delhi, to find out what effective steps can be taken to curb the pollution in Delhi and NCR Region, considering the onset of winter and fog conditions which are going to cause serious problem.

We have seen that in spite of imposition of odd-even scheme the pollution is increasing in the city of Delhi and the NCR region and pollution has reached to very severe level. Drastic steps are required to be taken by all concerned working in tandem and to cooperate with each other as it is not an adversarial litigation. Let the concerned authorities discharge their duties in view of Doctrine of Public Trust and rise to the occasion to take care of the pollution which is being caused. Let the effective steps be

suggested to this Court, as assured, on 25.11.2019.

It was also pointed out that in Haryana, Punjab and Uttar Pradesh stubble burning is still taking place. Satellite images have been placed on record by Ms. Aprajita Singh, learned Amicus Curiae, Mr. A.N.S. Nadkarni, learned Additional Solicitor General of India and Mr. Mukul Rohatgi, learned senior counsel. In the circumstances, in order to ensure that necessary steps are taken and no stubble burning takes place, the presence of the Chief Secretary of the State of Punjab, Haryana and Uttar Pradesh and the NCT of Delhi is required as lot is required to be done and the pollution level is worsening in Delhi and NCR region, in spite of orders. We direct the Chief Secretary of the above mentioned States/NCT of Delhi to file their respective affidavits of the steps taken and to remain present in this Court on 25.11.2019.

We are not dilating further on the odd-even scheme issue as it was stated by Mr. Mukul Rohatgi, learned senior counsel, that as to odd-even scheme today is the last day. Be that as it may, let further data has to be placed by CPCB as well as the Government of NCT of Delhi in this regard.

The Delhi Development Authority (DDA), PWD/CPWD and all the Corporations of Delhi cooperate and extend full support to the Monitoring Committee, any non-compliance to be viewed seriously by this Court.

List on 25.11.2019.

(NARENDRA PRASAD)  
COURT MASTER

(JAGDISH CHANDER)  
COURT MASTER