

**BEFORE HON'BLE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 687 OF 2023

IN THE MATTER OF:

In Re: Air Quality Index in various Cities

Along with Original Application No. 663 OF 2023

News Item published in the Indian Express dated 07.10.2023 titled "GRAP Stage I kicks in as air quality dips to poor condition likely to prevail till Sunday"

Along with Original Application No. 1228 OF 2024

News Item titled "Lancet study links alarming mortality rates to poor air quality 12 strategies to combat country's air pollution crisis" appearing in the Indian Express dated 13.09.2024

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Place: New Delhi

Date: 16.12.2024



Sanjay Upadhyay
[Senior Advocate]

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MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal vide Order dated 26.11.2024 had noted the numerous issues in air pollution as submitted in the Note of the Amicus Curiae dated 25.11.2024, which require urgent examination by this Hon'ble Tribunal. Further, it is submitted that the counsel for MoEF&CC on 26.11.2024 has submitted a note before this Hon'ble Tribunal listing the areas of air quality management which the Hon'ble Supreme Court had passed orders/directions in the case of M.C. Mehta v. Union of India [WP (C) No. 13029/1985].
 - (i) Crop Burning
 - (ii) RFID
 - (iii) Remote sensing
 - (iv) Hydrogen and CNG Buses
 - (v) Color Coded Stickers
 - (vi) Parking Policies
 - (vii) Pet Coke
 - (viii) Thermal power Plants
 - (ix) Gas for Power Plants
 - (x) Environmental Compensation Charge

- (xi) Cap on three wheelers
- (xii) Registration of BS IV
- (xiii) Railways
- (xiv) Bio Medical Waste
- (xv) Advertising Policy
- (xvi) Eastern Expressway
- (xvii) PNG Regulatory Board

2. That this Hon'ble Tribunal after perusing the aforesaid note and list submitted by the Amicus and the MoEF&CC counsel and on the request of the counsel for MoEF&CC, vide order dated 26.11.2024 directed counsels for all the concerned authority

“to cull out the issues that need to be examined by the Tribunal and the parameters on which those issues are to be examined and also to find out if any of those issues overlap with the issues under consideration currently before the Hon'ble Supreme Court.”

3. That in pursuance of the aforesaid order of this Hon'ble Tribunal, a meeting was held on 10.11.2024 of the Amicus, Senior Advocate Mr Sanjay Upadhyay, MoEF&CC Counsel, Advocate Ms Suhasini Sen and CAQM Counsel, Senior Advocate Ms Ruchi Kohli.

4. That it is submitted that the issues that have been under consideration by the Hon'ble Supreme Court currently in 2024 have been:-

- i. Implementation of GRAP
- ii. Implementation and Enforcement Mechanism of CAQM
- iii. Ban on Firecrackers
- iv. Filling up of vacancies in the SPCBs
- v. Appointment of Court Commissioners for implementation of GRAP
- vi. Compliance with Solid Waste Management Rules, 2016
- vii. Construction and Demolition activities and waste management under GRAP
- viii. Compensation for construction workers during GRAP IV.

5. That further, although some of the abovementioned issues being dealt with by the Hon'ble Supreme Court may overlap with subjects being looked into by this Hon'ble Tribunal, however, the same may not restrict this Hon'ble Tribunal to

proceed with the present case to adjudicate the issue of air pollution holistically and also to ensure compliance with respect to such overlapping issues as –

- i. The Orders of the Hon'ble Supreme Court are primarily restricted to Delhi NCR while the jurisdiction of this Hon'ble Tribunal in the present case pertains to the Non-Attainment Cities beyond Delhi NCR and across States.
- ii. The mandate of the present connected matters in this Hon'ble Tribunal pertains to the compliance by Non-Attainment Cities with the various orders/directions passed by the Hon'ble Supreme Court and this Hon'ble Tribunal on the various issues highlighted in the Note of the Amicus Curiae dated 25.11.2024.

A small word of caution in this regard is necessary as the Hon'ble Supreme Court has stated in the order 02.12.2014 passed in M.C. Mehta v. Union of India [W.P. (C) No. 13029/1985] that it would be conducting issue wise hearing in the month of January, 2025 in the said case.

Therefore, in the humble submission of the Amicus Curiae, apart from the implementation of GRAP Orders and the role of CAQM, there is no restriction with the Hon'ble Tribunal proceeding to hear the issues submitted in the Note of 25.11.2024 of the Ld. Amicus Curiae. Moreover, with respect to the issues which have been dealt with prior to 2024 by the Hon'ble Supreme Court, it is well within the mandate of this Hon'ble Tribunal to look into compliance with the Directions of the Hon'ble Supreme Court.

6. That for ease of reference and adjudication, out of the 32-35 issues highlighted in the Note dated 25.11.2024, compliance of States with respect to the law and the directions of the Hon'ble Tribunal, the present note focuses on:-

- (i) National Clean Air Programme (NCAP) and City Action Plan
- (ii) Source Apportionment Study

Where certain fresh Orders may be issued on the above, although there is partial compliance by the concerned Respondents.

NCAP and City Action Plan

7. That this Hon'ble Tribunal vide order dated 08.04.2021 passed in O.A. No. 681/2018 noted that while action plans have been prepared for almost all the non-attainment cities (NACs) and are available on the websites of CPCB as well as State PCBs. However, the said action plans do not comply with this Hon'ble Tribunal's orders. Further, this Hon'ble Tribunal emphasized that to implement

the rule of law, accountability for every breach of air quality regulations must be established by identifying violators and taking action to restrict polluting activities while also obtaining compensation for the infringement.

8. That it is humbly submitted that CPCB is the executing agency under section 16(2)(b) of the Air (Prevention and Control of Pollution) Act, 1981, which mandates CPCB to plan and execute a nationwide programme for prevention, control and abatement of air pollution. It may be noted that this Hon'ble Tribunal vide order dated 08.04.2021 passed in O.A. No. 681/2018 had observed, "Final success of execution of action plans depends on graph of reduced pollution load.". It is humbly submitted that CPCB may be directed to ensure that the NAC action plans are executed within the NCAP thematic areas, which are -

- (i) Air Quality Data
- (ii) Waste and Biomass - Dumping and Burning
- (iii) Industries
- (iv) Vehicles
- (v) Road Dust and Construction & Demolition
- (vi) Public Outreach
- (vii) Capacity Building, Monitoring Network and Source Apportionment

9. That it is humbly submitted that the CPCB is statutorily mandated to ensure that the city action plans are aligned to the aforesaid thematic areas and that prevention and control of air pollution and fund utilization under NCAP or XV Finance Commission is in accordance with pollution sources identified as per Source Apportionment Study undertaken for respective city.

Source Apportionment Study

10. That this Hon'ble Tribunal in the present O.A. has time and again stressed the need for the NAC cities to undertake and complete respective Source Apportionment Studies and prioritize air quality improving efforts is in line with the concentration of pollutant sources revealed by the study.

It may be noted that this Hon'ble Tribunal vide order dated 22.11.2023 passed in the present O.A. No. 687/2023 at para 10 noted that States'

"The actions for improving air quality should be in accordance with the approved action plan with priority to address the cause which is governing the air quality as per source apportionment."

Further, this Hon'ble Tribunal vide order dated 05.12.2023 in the present O.A. No. 687/2023 at para 8 emphasised that the States -

“.....where apportionment study has not been done are required to complete the said apportionment study in respect of the factors contributing in pollution and focus on those factors which have a larger share in contribution.”

11. That it may be pertinent to point out that this Hon'ble Tribunal vide order dated 19.02.2024 passed in the present O.A. No. 687/2023 at para 5(i) has observed that the examination of the Action Taken Reports filed by States in the present matter reveal that many City Action Plans under NCAP are being implemented without having completed the Source Apportionment Study. Further, this Hon'ble Tribunal directed all the States to disclose the contribution by each polluting source in terms of identified pollutant (PM10/PM2.5) as per the Source Apportionment Study.

12. That it is humbly submitted that despite issuing repeated orders for the States to either complete or undertake source apportionment or disclose pollution sources as per source apportionment study, the States failed to submit an action plan in accordance with the directions of this Hon'ble Tribunal.

13. That this Hon'ble Tribunal after perusing the reports filed by the States vide order dated 03.05.2024 passed in the present O.A. No. 687/2023 at para 3(i) observed the following as one of the deficiencies in the reports filed

“Source Apportionment Studies have not yet been completed in many cities and not even initiated as they are not falling in the Non-Attainment category.”

14. That it is humbly submitted that this Hon'ble Tribunal in a similar matter, O.A. No. 681/2018 had also taken cognizance of the Source apportionment study with respect to NAC. It may be noted that vide order dated 08.10.2018 passed in the aforesaid O.A., this Hon'ble Tribunal had directed the action plans of the Non-Attainment Cities to identify the source of pollution and determine source apportionment, amongst others.

It may be pertinent to point out here that this Hon'ble Tribunal vide order dated 08.04.2021 passed in the said O.A. while taking note of the Consolidated Report of CPCB filed in the said O.A. at para 26(ii) observed that

“Source Apportionment (SA) study is Completed in 09 States (14 cities); under progress in 15 States (68 cities); and in proposal stage in 14 States (40 cities).”

Further, as per the Reply filed by the MoEF&CC in compliance with this Hon’ble Tribunal’s orders dated 03.05.2024 and subsequent orders 14.08.2024 and 26.09.2024 filed in present O.A. No. 687/2023, it is submitted that Out of these 19 cities, 11 cities (Patna, Delhi, Baddi, Dhanbad, Bhopal, Gwalior, Navi Mumbai, Mandi Gobindgarh, Ludhiana, Ghaziabad, and Lucknow) have completed Source Apportionment Studies to assess the contribution of various sources of pollution for prioritizing air pollution control measures.

15. That a combined reading of the directions passed by this Hon’ble Tribunal in O.A. No. 681/2018 and in the present O.A. No. 687/2023, reveals that despite this Hon’ble Tribunal’s Directions, not all NAC action plans are based on Source Apportionment Study.

It may be pertinent to mention here that the National Clean Air Programme (NCAP) by MoEF&CC is required to integrate source apportionment studies. It is humbly submitted that such science-based integration ensures that air pollution prevention, control and abatement interventions are precise, measurable, and tailored to the unique pollution dynamics of each city and region. Further, the Source Apportionment study reveals pollution sources that vary significantly across cities and seasons and guides city-specific air quality management plans focusing on predominant local sources ensuring that mitigation measures are data-driven and address the predominant pollution sources unique to each city/region.

In view of the submissions made above, it is humbly submitted that this Hon’ble Tribunal may pass the following directions in the interim:

- (i) Direct the Central Pollution Control Board (CPCB) to ensure along with the concerned States that all NAC Action Plans are revised and updated and are also aligned with Source Apportionment Studies, and that future interventions under the National Clean Air Programme (NCAP) are guided by these studies for data-driven and targeted pollution mitigation measures;
- (ii) Direct all State Pollution Control Boards (SPCBs) and respective authorities to expeditiously complete the Source Apportionment Studies for all cities, including those not categorized as NACs, as directed by this Hon’ble Tribunal in its orders dated 05.12.2023, 19.02.2024, and

- 03.05.2024, and ensure submission of comprehensive reports disclosing pollution sources for each city;
- (iii) Direct the CPCB to establish a framework for periodic revisions of regional and city action plans, integrating evolving data from Source Apportionment Studies, seasonal pollution patterns, and emerging pollution sources;
 - (iv) Direct CPCB to verify that city-specific action plans prioritize mitigation measures addressing the primary sources of pollution as identified in the respective Source Apportionment Studies, with clear timelines and resource allocations for effective implementation;
 - (v) Direct CPCB, SPCBs, and concerned state authorities to submit progress reports on NAC action plans and make them publicly available on their respective websites for transparency and public awareness;
 - (vi) Direct CPCB to file quarterly progress reports before this Hon'ble Tribunal, detailing:
 - (a) Status of Source Apportionment Studies across all cities.
 - (b) Compliance with thematic areas of NCAP for each city.
 - (c) Impact of measures taken on pollution load reduction in terms of PM2.5 and PM10 levels.
 - (vii) Direct National Task Force constituted in compliance with the directions passed by this Hon'ble Tribunal vide order dated 08.04.2021 headed and co-ordinated by the Secretary MOEF&CC to periodically review the effectiveness of city-specific action plans and recommend corrective measures where necessary, particularly in cities failing to meet NCAP targets and report back to the Hon'ble NGT quarterly;

Some Additional Interim Directions on key issues impacting Air Pollution may be as follows:

- (viii) Direct the CPCB to create a centralized platform for citizens which integrates the existing mechanisms like SAMEER by CPCB, 311 by MCD, PRANA by MoEF&CC and helpline by CAQM;
- (ix) Direct the Ministry of Road Transport and Highways to furnish the Status Report on 'Voluntary Vehicle Fleet Modernization Programme, A Guide towards setting of Vehicle Scrapage EcoSystem' and an Action taken Report by all NAC States on the same;

- (x) Direct the Ministry of Road Transport and Highways to give a status Report on Central Motor Vehicles (First Amendment) Rules, 2023 dated 16.01.2023 with regard to scrapping of government vehicles, older than fifteen years, including Public Sector Undertakings and autonomous body owned or controlled by Central or State Government and its potential to expand to privately owned vehicles;
- (xi) Direct the States of Haryana, Punjab, Uttar Pradesh and Rajasthan to place on record the Action Plan for Crop Residue Management including satellite-based tracking and ground truthing mechanism for regulation, especially for the months of October to February and challenges faced therein;
- (xii) Direct the CAQM to provide an updated status report of the implementation challenges of their eighty-five directions issued thus far;
- (xiii) Direct the MoEF&CC to provide the status of Action taken by the Coordination Committee on Indo Gangetic Plains constituted by MoEF&CC for air quality management in Indo-Gangetic region consisting of eight States and Union Territories;
- (xiv) Direct the MoEF&CC and participating States to provide the status of the World Bank assisted programme on State and Regional Airshed Plans for Indian Cities and States, including the State of U.P's Clean Air Management Project under the same; and
- (xv) Pass any other order/direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present O.A. and connected matters thereto.

Place: New Delhi

Date: 16.12.2024



Sanjay Upadhyay
[Senior Advocate]