

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
Original Application No. 663/2023**


**IN THE MATTER OF:**

News Item published in Indian Express dated 07.10.2023 titled "GRAP Stage 1 kicks in as air quality dips to poor condition likely to prevail till Sunday"

**LIST OF ORDERS PASSED BY THE HON'BLE SUPREME COURT IN  
M.C. MEHTA Vs. U.O.I. (W.P. No. 13029/1985)**

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NEW DELHI  
DATE: 23.11.2024

  
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ITEM NO.7

COURT NO.6  
1093

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 &amp; ORS.

Respondent(s)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) 1) I.A. NO. 236055/2024 (APPLICATION FOR INTERVENTION) 2) I.A. NO. 231348/2024 (APPLICATION FOR DIRECTIONS) 3) I.A. NOS. 16223, 16230, 16235, 16236/2021 (APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILEING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON) NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) PETITIONER-IN-PERSON MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MS. FILZA MOONIS, MR. ANIL KUMAR, ADVOCATES MR. DEEPAK KHOSLA, PETITIONER-IN-PERSON)

Date : 23-10-2024 This petition was called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

1. Pursuant to this Court's order dated 16<sup>th</sup> October, 2024, the Chief Secretaries of the States of Punjab and Haryana are present today.

2. We have heard the learned counsel appearing for the parties on the implementation of our earlier orders and, in particular, the order passed by the Commission for Air Quality Management (for short, "the Commission") on 10<sup>th</sup> June, 2021.

3. As regards the implementation of the directions contained in paragraph 14 of the said order, today we have a scenario where both the Punjab and Haryana Governments have come out with a case that monitoring as required by clause (e) of paragraph 14 through Village Nodal Officers, Cluster Officers, Sub Divisional Officers, District level Officers and State Level Officers is now being done. However, the precise action taken by a large number of officers is not specifically placed on record.

4. It is claimed by the Chief Secretary of the Government of Haryana that this year, the instances of stubble burning have been reduced considerably. However, in the case of both Governments, we find that selective action is being taken against the wrongdoers. In some cases, the Governments claim that they have recovered compensation. In some other cases, they are claiming that they have registered First Information Reports. The environmental compensation that is stated to be recovered is minimal.

5. The learned Additional Solicitor General appearing for the Commission states that the Government of India has exercised power under Section 15 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (for short, "the Act") and has

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adopted the formula laid down by the National Green Tribunal for fixing rates of compensation while framing Rules. Nothing is placed on record to show that the rule-making power has been exercised in terms of Section 15 of the Act prescribing the rates of compensation. The importance of Section 15 of the Act has to be understood in the context of the proviso to sub-section (1) of Section 14 of the Act, which excludes the farmers from the applicability of penal provisions. When such a concession is given to the farmers, power has to be exercised by the Government of India under Section 15 of the Act by framing rules and by providing appropriate Environmental Compensation. The Government cannot blindly rely upon the formula fixed by the National Green Tribunal.

6. We direct the Government of India to reconsider the issue and take action under Section 15 of the Act for prescribing proper rates of compensation. Section 15 of the Act talks about the manner of collecting compensation. Unless proper exercise of power under Section 15 of the Act is made, there cannot be any effective action against the wrongdoers. We expect the Government to take action within two weeks from today.

7. Another serious issue is flagged by the compliance affidavit filed by the State of Punjab. Our attention is invited to the amendment made to Section 15 of the Environment (Protection) Act, 1986 (for short "the

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Environment Protection Act") by Jan Vishwas (Amendment of Provisions) Act, 2023. Section 15 as originally enacted provided that violation of provisions of the Environment Protection Act, the Rules framed thereunder, and the directions and orders passed thereunder was an offence. The provision of Section 15, which required prosecution of the wrongdoers, is substituted by a provision for recovery of penalty for contravention of provisions of the Environment Protection Act. This provision came into force on 1<sup>st</sup> April, 2024. The substituted Section 15 has been rendered completely ineffective due to inaction on the part of the Government of India. Neither the Rules are framed to support the said provision nor has the appointment of adjudicating officers as provided in Section 15C been made, though more than six months have elapsed since the date the substituted Section 15 came into force. As the adjudicating officers are not appointed under Section 15C, the law-enforcing machinery cannot impose penalties under Section 15. In the absence of machinery created by the Government of India, Section 15 as substituted has become toothless. There is nothing in the hands of law-enforcing authorities to strictly enforce the provisions of the Environment Protection Act. Therefore, those who violate the laws are now scot-free, as no action can be taken against them. The learned Additional Solicitor General assures the Court that the entire machinery will be brought into existence within

two weeks from today.

8. The inaction is reflected in the figures given across the bar. For example this year, there are 1084 identified cases of stubble burning in Punjab. However, compensation has been recovered from only 473 persons. As far as Haryana is concerned, 419 cases have been identified. First Information Reports have been lodged only against 93 of the wrongdoers, and nominal compensation has been recovered in the case of 320 wrongdoers. *Prima facie*, it appears to us that the penal provisions have not been consistently applied by both the States.

9. Under Section 14(1) of the Act, penal action has to be taken against those officials who have not implemented the directions issued under Section 12 of the Act. Instead of setting criminal law in motion, all that the Commission has done is to issue a show cause notices.

10. The time has come to remind the Government of India and the State Governments that every citizen has a fundamental right under Article 21 of the Constitution of India to live in a pollution-free environment. The stubble burning leads to huge air pollution. These are not matters only of implementing the existing laws; they are the matters of blatant violation of fundamental rights guaranteed under Article 21 of the Constitution of India. It is not only a question of implementing the orders of the Commission and taking action for breaches

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of law; the Governments will have to address themselves to the question of how they will protect the right of citizens to live with dignity and in a pollution-free environment. Therefore, it is a high time that the Governments and the authorities note that this litigation is not an adversarial litigation and this litigation is only to ensure that the laws relating to the environment are strictly complied with so that the constitutional rights of the citizens are protected. We may also note here that coordination between the Commission and the authorities of the States is absolutely necessary.

11. As noted in the earlier orders, the most important statutory committee under the Act is not properly functioning because many members remain absent in the Committee meetings. It is this Committee which deals with the implementation of the orders passed by the Commission. Now, there is an assurance in the affidavit filed by the Union of India that necessary action will be taken, even to replace the members not attending the meetings.

12. Ms. Aparajita Singh, the learned senior counsel appointed as amicus curiae, is absolutely correct in submitting that year after year, this Court has passed directions to deal with the issue of stubble burning. In fact, she pointed out that creation of the Commission is as a result of the orders passed by this Court. She is right in submitting that despite the orders passed by

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this Court, every year at the grass-root level there is no change.

13. We fully agree with the learned senior counsel appointed as amicus curiae, and we have put all concerned to notice that stricter action will have to be taken against those responsible for violations.

14. We direct the Government of India to immediately look into the proposal submitted by the State of Punjab for the release of additional funds so that provision for making available tractors with drivers and diesel can be made to those farmers whose holding is less than 10 hectares. We direct the Government of India to take appropriate decision on the proposal submitted by the State Government within two weeks from today.

15. The learned amicus curiae has rightly pointed out that the other aspects causing pollution in Delhi will have to be addressed. Those issues are broadly as under:

(a) There are 13 hot spots in Delhi already identified by EPCA where large-scale open burning of garbage/waste burning happens;

(b) Pollution created by transport in Delhi;

(c) Entry of heavy trucks in Delhi; and

(d) Pollution caused by industries.

16. This Court has issued a large number of directions on the aforesaid aspects from time to time. We direct the State Government of Delhi to examine all earlier

orders passed by this Court <sup>1112</sup> on the aspects mentioned above and submit a compliance report regarding all the directions within two weeks from today. Certain directions were also issued against the Central Government. The Government of India and all National Capital Region States shall file similar compliance affidavits.

17. For hearing on the subjects mentioned above and for reporting compliance with the directions issued today, list on 4<sup>th</sup> November, 2024 at the end of the Board.

18. The presence of the Chief Secretaries is dispensed with.

IA No.236055/2024

19. We direct the applicant to provide copies of the application to the learned counsel representing all the State Governments. We direct the State Governments to look into the suggestions made in the application.

20. List on 4<sup>th</sup> November, 2024 at the end of the Board.

IA No.231348/2024 and 158128/2019

21. List on 4<sup>th</sup> November, 2024 at the end of the Board.

IA Nos.88585/2020 and 16223, 16230, 16235 and 16236 of 2021

22. The Registry will ensure that copies of IA D.Nos.64377, 50346, 50347, 50349 and 50350 of 2020 are

placed before the Court on <sup>1113</sup>the next date.

23. List on 4<sup>th</sup> November, 2024 at the end of the Board.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

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)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) 1) I.A. NO. 236055/2024 (APPLICATION FOR INTERVENTION) 2) I.A. NO. 231348/2024 (APPLICATION FOR DIRECTIONS) 3) I.A. NO. 158128/2019 (APPLICATION FOR INTERVENTION) 3) I.A. NOS. 88585/2020, 16223, 16230, 16235, 16236/2021 (APPEAL AGAINST LD. REGISTRAR'S ORDER, APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILEING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON) NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) PETITIONER-IN-PERSON MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MS. FILZA MOONIS, MR. ANIL KUMAR, ADVOCATES MR. DEEPAK KHOSLA, PETITIONER-IN-PERSON)

Date : 04-11-2024 This petition was called on for hearing today.

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

1. Notwithstanding the direction contained in paragraph 14 of this Court's order dated 23<sup>rd</sup> October, 2024, the Union of India has not taken any decision on the proposal submitted by the State of Punjab. We extend the time to take a decision by a period of one week from today. Compliance shall be reported on 11<sup>th</sup> November, 2024.
2. Assurance has been given in paragraph 1 of the status report submitted by the Union of India that draft Rules mentioned in clauses 2(a) and 2(b) thereof will be gazetted during the course of this week. In view of this assurance, we direct that further compliance to be filed on or before 11<sup>th</sup> November, 2024.
3. Our attention is invited to the communication dated 29<sup>th</sup> December, 2023 passed by the Ministry of Road Transport and Highways (MVL Section) of Government of India which is addressed to the Principal Secretaries/the Secretaries, Department of Transport and the Transport Commissioners of all the States/Union Territories. The communication itself indicates that all the States and the Union Territories were supposed to report compliance with the order dated 13<sup>th</sup> December, 2023 regarding enforcement of norms prescribed in respect of "Colour Coded Stickers".

4. We direct all National Capital Region States to report compliance with the order dated 13<sup>th</sup> December, 2023 by filing the affidavits within a period of one month from today.

5. We direct the Ministry of Road Transport and Highways (MVL Section) to forthwith call a meeting of the Secretaries of the Department of Transport and the Transport Commissioners of the remaining States and the Union Territories for the purposes of ascertaining the steps taken to implement the order dated 13<sup>th</sup> December, 2023. We direct the Union of India to file an affidavit reporting compliance before the end of this year. Needless to add that it is the responsibility of the Union of India and all the States and the Union Territories to ensure strict compliance with the directions issued by this Court on 13<sup>th</sup> December, 2023 for making compliance with the provisions of the Motor Vehicle (High Security Registration Plate) Order, 2018 as amended. Compliance on this aspect shall be considered on 3<sup>rd</sup> January, 2025.

6. The learned Amicus Curiae has placed on record a report submitted by the Centre for Science and Environment (CSE), New Delhi. We request the learned Amicus Curiae to provide copies of the said report to the learned counsel representing the States of Punjab and Haryana as well as the learned Additional Solicitor General. There are two issues which we must consider.

7. The learned counsel representing the Delhi Government stated that there was a ban on use of firecrackers in Delhi. There cannot be any dispute that the ban was hardly implemented. Moreover, the effect of non-implementation of the ban is very apparent from the report of the CSE which shows that the pollution level in Delhi in the Diwali of 2024 was all time high. It was much higher than the Diwali of 2022 and 2023. Moreover, the report indicates that even farm fires were on rise during Diwali days. We direct the Delhi Government to file a detailed affidavit placing on record the orders containing the use of firecrackers and the steps taken by the Delhi Government to implement the same.

8. We issue notice to the Commissioner of Police, Delhi calling upon him to file an affidavit indicating the steps taken by the Police to enforce the complete ban on use of firecrackers in Delhi. While filing the affidavits, the Delhi Government and the Police must also state what effective steps they propose to take next year to ensure that the ban on use of firecrackers is fully implemented. This will also include the measures be taken for public awareness.

9. We also direct the Governments of Haryana and Punjab to file the affidavits indicating the details about the number of instances of stubble burning/farm fires during the last 10 days of October, 2024 and the first 3 days of November, 2024 and the action taken thereon.

10. In paragraph 15 of the last order dated 23<sup>rd</sup> October, 2024 we have highlighted the issue of large scale open burning of garbage/waste burning and three other issues. The learned counsel appearing for the Delhi Government states that an affidavit has been filed on 30<sup>th</sup> October, 2024. Copies of the affidavit be provided by the learned counsel to all the parties.

11. The affidavits by Delhi Government and the Commissioner of Police to be filed within one week from today. The Delhi Government while filing the affidavit will also state whether there were instances of fires in farms within the limits of Delhi.

12. For considering these aspects of what happened during Diwali of 2024, the Court will consider the issue on 11<sup>th</sup> November, 2024.

13. In the meanwhile, the Government of Delhi and the other parties will also take a call on the issue of perpetual ban on use of firecrackers in Delhi.

IA No.235980/2024

14. This application will be considered on 11<sup>th</sup> November, 2024.

I.A. NOS.88585 of 2020, 16223, 16230, 16235 and 16236 of 2021

15. The applicant appearing in person states that IA Diary Nos.50346, 50347, 50349 and 50350 of 2020 were heard on 15<sup>th</sup> June, 2020 in Covid time when he could not get connectivity. Therefore, he could not appear. The applications were dismissed.

16. We, therefore, recall the order dated 15<sup>th</sup> June, 2020 only to the extent of dismissal of IA Diary Nos. 50346, 50347, 50349 and 50350 of 2020 and the said applications shall stand restored which shall be considered on 11<sup>th</sup> November, 2024.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

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 SWRIT PETITION(S)(CIVIL) NO(S). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) 1) I.A. NO. 235980/2024 (APPLICATION FOR INTERVENTION) 2) I.A. D. Nos. 50346, 50347, 50349 and 50350 of 2020 (APPLICATIONS DIRECTION AND APPEAR AND ARGUE IN-PERSON) 3) I.A. NOS. 88585/2020, 16223, 16230, 16235, 16236/2021 (APPEAL AGAINST LD. REGISTRAR'S ORDER, APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILEING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON)

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Date : 11-11-2024 This petition was called on for hearing today.

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

**IN RE: BAN ON FIRECRACKERS**

1. As regards the ban on firecrackers, an affidavit has been filed by Shri K.S. Jayachandran, Special Secretary, Environment Department, Government of NCT of Delhi. A copy of an order dated 14<sup>th</sup> October 2024, by which a complete ban was imposed on the manufacture, storage and bursting of all categories of firecrackers from 14th October 2024 till 1st January 2025, is produced on record. As far as the implementation of the order is concerned, the Delhi Government has expressed helplessness as the same has to be implemented by the Delhi Police.

2. Ms. Aishwarya Bhati, learned ASG, appearing for the Delhi Police has invited our attention to an affidavit filed by Shri Hareesh H.P., Deputy Commissioner of Police, Legal Division, Police Headquarters, New Delhi. There is some substance in the grievance made by the learned ASG that the order imposing the ban was passed as late as on 14th October 2024. However, we find that the Delhi Police have not taken the implementation of the said order seriously. There is nothing mentioned in the affidavit to show that the order imposing the ban was communicated to those who have been permitted within the limits of the territory of NCT of Delhi to manufacture, store and sell the firecrackers, including those who sell the firecrackers online marketing platforms. The first thing the Delhi Police ought to have done was to inform all the licence holders and all those who indulge in the sale of firecrackers on online marketing platforms to stop the sale of the firecrackers forthwith. The purport of the said order is that even firecrackers could not have been stored during the ban period in the territory of NCT of Delhi.

3. We direct the Commissioner of the Delhi Police to immediately take action to inform all concerned about the said ban and ensure that during the subsistence of the said ban, no licence holder manufactures, stores or sells the firecrackers. The Delhi Police shall immediately inform those entities which sell firecrackers through online marketing platforms to stop the sale and delivery of the firecrackers within the limits of the territory of the NCT of Delhi. We direct the Commissioner of the Delhi Police to set up a

special cell for implementation of the order of ban and hold the Station House Officers of all the local Police Stations responsible for enforcing the said ban.

4. We wonder why the Delhi Government delayed the promulgation of the order till 14<sup>th</sup> October, 2024. It is quite possible that by that time, the users who used the firecrackers during the ban period must have acquired the stock of the firecrackers.

5. The right to live in a pollution-free atmosphere is a fundamental right of every citizen, protected by Article 21 of the Constitution of India. *Prima facie*, we are of the view that no religion encourages any activity which creates pollution. The use of firecrackers also affects the fundamental right to health of the citizens apart from creating noise pollution.

6. The learned counsel appearing for the Delhi Government states that the Government will decide on the question of extending the ban throughout the year after consulting all the stakeholders. We direct the Delhi Government to take an appropriate decision before 25<sup>th</sup> November, 2024.

7. We direct the Commissioner of the Delhi Police to take effective steps in terms of what we have observed above for implementing the order dated 14<sup>th</sup> October 2024 imposing a ban on firecrackers. We direct the Commissioner of the Delhi Police to file his personal affidavit before 25<sup>th</sup> November 2024, bringing on record the steps taken by the Delhi Police to implement the order imposing a ban on firecrackers.

8. We call upon the other NCR States to respond to the issue of banning the manufacture, storage, and sale of firecrackers and bursting of firecrackers within the limits of NCR States. All NCR States must respond before 25<sup>th</sup> November, 2024.

9. Meanwhile, we permit Ms Aparajita Singh, learned Senior Advocate appointed as Amicus Curiae, to place on record the earlier orders passed by this Court on the ban of firecrackers.

10. The Petition be listed at the end of the cause list on 25<sup>th</sup> November, 2024.

**IN RE: VEHICULAR POLLUTION**

11. We have perused the affidavit dated 30<sup>th</sup> October, 2024 filed on behalf of the Delhi Government by Shri K.S. Jayachandran, Special Secretary, Environment Department, Government of NCT of Delhi.

12. As far as the issue regarding pollution created by vehicles is concerned, we will hear the learned *Amicus Curiae* and other parties on 25<sup>th</sup> November, 2024. The Petition be listed at the end of the cause list.

13. The issue regarding directions issued by this Court about using colour-coded stickers is going to be considered on 3rd January 2025. The Petition be listed at the end of the cause list on that day.

**IN RE: IMPLEMENTATION OF SOLID WASTE MANAGEMENT RULES, 2016**

14. One of the important issues is the implementation of the Solid Waste Management Rules, 2016 (for short, "the 2016 Rules").

15. We direct the Chief Secretary of the Delhi Government to call a meeting of all the stakeholders, including the Municipal Corporation of Delhi, to discuss the issue of implementation of the 2016 Rules. All the stakeholders must come together and file a common report before this Court laying down the timelines for reporting compliance with the provisions of the 2016 Rules. This exercise of holding a meeting and coming out with a common response shall be completed by 13<sup>th</sup> December, 2024.

16. It is a matter of immense importance that the 2016 Rules are implemented in their true letter and spirit in the capital city. As we have been noticing in other cases also, the 2016 Rules have remained on paper. If in the territory of NCT of Delhi, there is a complete failure to implement the 2016 Rules, one can imagine what must be happening in the other cities in the other parts of the country. If we find that all other authorities do not come together and tell us the time-bound schedule for implementation of the 2016 Rules, the Court may have to consider of passing harsh orders. On one hand, there is no implementation of the 2016 Rules as a result of which the garbage/solid waste is being illegally stored in landfill sites which are prone to fires and, on the other hand, there are a large number of construction activities going on in the State which obviously adds to generation of solid waste and construction waste as well. The Delhi Government must come out with the figures for the daily generation of solid waste in the city while submitting the report. If the involvement of any department of the Government of India is required in the

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implementation of the 2016 Rules, we authorise the Special Secretary of the Environment Department of the Delhi Government to call the concerned officers of the Union of India for the meeting. If the Special Secretary finds that any of the stakeholders are not cooperating, we permit him to move an application to this Court to seek directions. The Court will consider this aspect on 16<sup>th</sup> December, 2024.

17. The Petition be listed at the end of the cause list on 16<sup>th</sup> December, 2024.

**IN RE: STUBBLE BURNING**

18. We have perused the order dated 8<sup>th</sup> November, 2024 signed by the Deputy Commissioner (M&T), Ministry of Agriculture & Farmers Welfare (Department of Agriculture & Farmers Welfare) (Mechanization & Technology Division), Government of India, which is Annexure-F to the compliance report tendered by the Union of India today. We grant time of one week to the State Punjab to deal with this issue which will be considered on 22<sup>nd</sup> November, 2024.

19. The Petition be listed at the end of the cause list on 22<sup>nd</sup> November, 2024.

20. The compliance reports filed by the Governments of Haryana and Punjab indicate that there were a large number of farm fires during Diwali days. Even as of today, we find reluctance on the part of both Governments to take action in terms of Section 14 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (for short, "CAQM Act").

21. The learned ASG appearing for the Commission states that the District Magistrates in the States have been authorised to initiate prosecution under sub-Section (2) of Section 14 of the CAQM Act. However, we find that instead of initiating prosecution, the States are busy issuing show-cause notices to the officers. We are talking about the flagrant breaches of the order of the Commission passed three years back. The States owe an explanation to the Court for their inaction.

22. We may note here a disturbing feature. Today, there are interventions sought by the farmers by contending that the States are not providing them with machinery and other equipment. The States cannot drive the farmers to this Court to make such grievances as it is at their level that they must sort out the issue of farmers. We direct the Governments of Haryana and Punjab to file better affidavits regarding action taken within a period of three weeks from today which will be considered on 16<sup>th</sup> December, 2024.

23. The Petition be listed at the end of the cause list on 16<sup>th</sup> December, 2024.

24. The learned ASG states that as regards the grievance regarding incorrect data being furnished by the Indian Space Research Organisation (for short, "ISRO"), we direct both the State Governments to raise the issue before the appropriate authorities of ISRO.

25. The compliance report filed by the Union Government brings on record two important aspects. One is that the Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024, have been published in the Official Gazette, and they have been brought into force. Similarly, the Commission for Air Quality Management in the National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) (Amendments) Rules, 2024, have been brought into force. We direct all concerned to implement these Rules in their true letter and spirit.

26. The compliance report also brings on record that now adjudicating officers have been appointed under the order dated 4<sup>th</sup> November, 2024. Therefore, we direct all concerned, including the States, to initiate action for recovery of penalty in accordance with Section 15 of the Environment (Protection) Act, 1986, for all the breaches covered by Section 15 as now the adjudicating machinery is in place. Even compliance on this aspect shall be reported to this Court before 16<sup>th</sup> December, 2024 by the States before filing an affidavit regarding non-compliance with the requirement of Section 14 of the CAQM Act.

(1) I.A. NO. 235980/2024 (APPLICATION FOR INTERVENTION); (2) I.A. D. Nos. 50346, 50347, 50349 and 50350 of 2020 (APPLICATIONS DIRECTION AND APPEAR AND ARGUE IN-PERSON); (3) I.A. NOS. 88585/2020, 16223, 16230, 16235, 16236/2021 (APPEAL AGAINST LD. REGISTRAR'S ORDER, APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON) AND (4) I.A. NO.252572/2024 (INTERVENTION

APPLICATION)

27. List on 22<sup>nd</sup> November, 2024 at the end of the cause list.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

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 &amp; ORS.

Respondent(s)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) (AIR POLLUTION)

NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MR. NIRAJ GUPTA ADVOCATES)

Date : 18-11-2024 This petition was called on for hearing today.

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HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

1. Pursuant to the request made by Ms. Aparajita Singh, learned Senior Advocate appointed as Amicus Curiae, today we have listed this Petition. We have listed this Petition today to find out how the Graded Response Action Plan (for short, "the GRAP") for NCR and adjoining areas published by the Commission for Air Quality Management (for short, "the Commission") in September 2024 is being implemented.

2. Stage III ('Severe' Air Quality) of the GRAP comes into picture when Delhi AQI ranges between 401-450. From the minutes of the meeting dated 13th November 2024 of the Sub-Committee of the Commission for dealing with the GRAP, it can be seen that, on 13th November 2024, the AQI had crossed 401. The learned Amicus Curiae stated that the AQI crossed 400 on 12<sup>th</sup> November, 2024.

Instead of immediately directing the implementation of Stage III of the GRAP, the Commission directed that Stage III should be implemented from 14th November 2024. The same is the case with the implementation of Stage IV ('Severe +' Air Quality). The order dated 17<sup>th</sup> November 2024 issued by the Commission records that the AQI crossed 450 at 6:00 p.m. on 17th November 2024. But still, a direction was issued to implement Stage IV from this morning.

3. From the submissions made across the Bar and from the minutes of the meeting dated 13<sup>th</sup> November, 2024, we find that the approach adopted by the Sub-Committee of the Commission is contrary to what is observed by this Court in paragraph 3 of the order dated 29<sup>th</sup> October, 2018 whereby a direction was issued to EPCA (the predecessor of the Commission) to take pre-emptive steps under the GRAP without strict adherence to the pollution stages delineated in the plan. The approach adopted by the Commission seems to be that it waited for improvement of the AQI and, therefore, the implementation of Stages III and IV of the GRAP was delayed. This is an entirely wrong approach. In anticipation of the AQI crossing the threshold limit, it is the duty of the Commission to start immediate implementation of Stages III and IV of the GRAP, as the case may be. The Commission cannot wait for the improvement of the AQI.

4. There is another issue which may require consideration. The issue is the data of which agency should be taken as the official data of the AQI level. The parties will have to be heard on this

aspect.

5. We direct all the State Governments of the NCR area to strictly implement Stage IV of the GRAP forthwith. All the NCR State Governments will immediately constitute teams to monitor the implementation of the actions required under Stage IV of the GRAP. The NCR State Governments and the Central Government will have to immediately take a call on the actions provided in clauses 5, 6, 7 and 8 of Stage IV and place the decision taken on record before the next date.

6. We direct the Government of NCT of Delhi and other NCR State Governments to create a grievance redressal mechanism to enable the citizens to lodge complaints about the violation of restrictions under Stage IV of the GRAP. It is pointed out that the Commission has a grievance redressal mechanism. We direct the Commission to look into the complaints and take prompt and immediate action thereon.

7. We make it clear that till this Court passes further orders, the implementation of Stage IV of the GRAP will continue even if AQI drops below 450. All the NCR State Governments and the Central Government will file compliance affidavits by 21<sup>st</sup> November, 2024.

8. We also direct the Commission to provide for more stringent actions at Stages III and IV of the GRAP and, perhaps, not to leave anything for the discretion of the Governments or the local

Authorities. The Commission will immediately take a call on this aspect.

9. The learned Amicus Curiae has tendered a compilation of documents across the Bar. Every disturbing factual aspect has been brought to the notice of this Court. The Indian Space Research Organisation (for short, "the ISRO") gets data from the NASA satellites, which pass over the NCR area at around 10:30 a.m. and 1:30 p.m. daily. Therefore, the instances of farm fires captured by the satellites are only during this limited period. Based on the information given by Dr Hiren Jethva, a senior research scientist at NASA Goddard Space Flight Center, the learned Amicus Curiae has pointed out that a South Korean satellite, GEO-KOMSAT 2A, which is a stationary satellite, has captured farm fires at 4:20 p.m. It is pointed out that there is a difference between the data collected through the stationery satellites and the data from the polar-orbiting satellites, such as NASA satellites, which are being relied upon by the ISRO. We, therefore, direct the Central Government as well as the Commission to make immediate arrangements for getting the data, either from the South Korean stationery satellite or any other stationery satellites, so that the data of farm fires throughout the day can be made available to the States to enable them to take immediate action. Needless to add that the Commission and the Central Government will also involve the ISRO in taking this step. The ultimate objective should be to ensure that all instances of farm burning throughout the day are reported to the concerned States so that they can take prompt action.

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Compliance with this aspect shall also be reported by 22<sup>nd</sup> November, 2024. Needless to add that, the Central Government and the Commission will procure data from the stationery satellites from 1<sup>st</sup> October, 2024.

**10.** List the Petition at the end of the cause list on 22<sup>nd</sup> November, 2024 for considering the compliance with today's directions.

**11.** The constitutional obligation of the Central Government and the State Governments is to ensure that the citizens live in a pollution-free atmosphere. Therefore, in addition to the actions proposed under Stages III and IV of the GRAP, all possible actions shall be taken at the level of the State Governments to ensure that the AQI is brought down.

**12.** Notwithstanding what is provided in clause 5 of Stage IV of the GRAP, the Delhi Government and the NCR State Governments will take an immediate call on stopping physical classes of all standards up to the twelfth standard.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

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)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) (AIR POLLUTION) AND IN RE: STUBBLE BURNING 1) I.A. NOS. 209845 AND 209846/2024 (APPLICATIONS FOR DIRECTION AND PERMISSION TO FILE APPLICATION FOR DIRECTION) 2) I.A. NO. 235980/2024 (APPLICATION FOR INTERVENTION) 3) I.A. D. Nos. 50346, 50347, 50349 and 50350 of 2020 (APPLICATIONS DIRECTION AND APPEAR AND ARGUE IN-PERSON) 4) I.A. NOS. 88585/2020, 16223, 16230, 16235, 16236/2021 (APPEAL AGAINST LD. REGISTRAR'S ORDER, APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON) 5) I.A. NO. 252572/2024 (APPLICATION FOR INTERVENTION) NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) MR. DEEPAK KHOSLA, PETITIONER-IN-PERSON MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MR. NIRAJ GUPTA, MR. MANISH KUMAR GUPTA, MR. KUMAR DUSHYANT SINGH ADVOCATES)

Date : 22-11-2024 This petition was called on for hearing today.

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

1. Firstly, we are dealing with the compliance made by the Government of the National Capital Territory of Delhi with the measures prescribed in the Graded Response Action Plan (for short, "the GRAP") Stage IV. So far as compliance with clauses 1 and 2 of Stage IV is concerned, we are not satisfied with the affidavit of the Delhi Government. The Government has not stated specifically in the affidavit at how many entry points into the State, there are teams stationed to implement clauses 1 and 2 of Stage IV of preventing entry of vehicles.

2. The learned Amicus Curiae pointed out that there are 113 entry points for entry into the State and the learned senior counsel appearing for the Delhi Government, on instructions, states that vigil is maintained primarily only at 13 major entry points for ensuring compliance with clauses 1 and 2 of Stage IV. This means that from the other 100 entry points, there is no restriction on entry of vehicles, which is banned under Stage IV.

3. We direct the Delhi Government and the Delhi Police to ensure that check posts are immediately set up at all 113 entry points into the State. The personnel operating the entry points must be clearly informed about the excepted items mentioned in clause 3 of the order dated 18<sup>th</sup> November, 2024 issued by the Government of Delhi. The trucks and the other vehicles covered by clauses 1 and 2 carrying only the items mentioned in clause 3 of the order dated 18<sup>th</sup> November, 2024 shall be allowed entry into the State.

4. Thus, it is apparent that notwithstanding the orders passed by this Court and the orders passed by the Commission for Air Quality Management (for short, "the Commission"), there is a failure on the part of the Delhi Government as well as the police machinery of the State to implement clauses 1 and 2 of Stage IV. We have been informed that CCTV cameras have been installed at 13 major entry points. The authorities concerned shall immediately hand over the CCTV footage of what is recorded on CCTV cameras at these 13 entry points from 18<sup>th</sup> November 2024 onwards, either on a CD or a pen drive, to the learned amicus curiae at the earliest.

5. Out of 113 entry points, at almost 100, there is no one to stop the entry of prohibited vehicles. We requested the members of the Bar to come forward and act as the Court Commissioners. We are happy to note that 13

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young members of the Bar who are present today have volunteered to act as the Commissioners of this Court. We appoint them as the Court Commissioners. Their names and cell phone numbers are as follows:

- (1) Mr. Pratyush Jain 7217868306
- (2) Mr. Aditya N.Prasad 9213155390
- (3) Mr. Aditya Bharat Manubarwala 9819825338
- (4) Ms. Manisha Chava 7042346777
- (5) Mr. Abhinav Aggarwal 9718880040
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- (8) Mr. Jatin Kumar 9958569293
- (9) Mr. Mohit Siwach 9643797717
- (10) Mr. Abhishk Budhiraja 8860995133
- (11) Mr. Pranav Dhawan 7619191176
- (12) Ms. Savi Nagpal 9953157024
- (13) Mr. Sumit Kumar 8377088277

6. The learned Additional Solicitor General appearing for the Union of India shall forward a list of these 13 members of the Bar along with their cell phone numbers to the Commissioner of Police, Delhi, who will ensure that the visit of 13 members of the Bar to various entry points is facilitated. We leave it to the 13 Court Commissioners appointed to decide who will visit which entry point. Needless to add, their job will be to

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ascertain whether Clauses 1 and 2 of Stage IV are being implemented at whichever entry point they visit. They are permitted to take photographs and videos. We request the members of the Bar to submit a comprehensive report of visits made till 24<sup>th</sup> November 2024, on Monday, 25<sup>th</sup> November 2024, when this matter will be heard. The Court Commissioners need not wait until a copy of this order is uploaded as all concerned parties are made aware of their appointment; if necessary, they shall be guided by the learned amicus curiae appearing in this case.

7. Mr Aditya N. Prasad will act as a coordinator for coordinating the activities of 13 advocates appointed as Court Commissioners. The learned amicus curiae will take the help of this team of 13 members of the Bar for scrutiny of the CCTV footage provided to her by the authorities.

IA No.269389 of 2024

8. List on 25<sup>th</sup> November, 2024

IA Nos.270761 and 270763 of 2024

9. List on 25<sup>th</sup> November, 2024.

10. List the Petition on 25<sup>th</sup> November, 2024 at the end of the cause list. On that day, we will consider the question of continuing GRAP IV measures and various issues arising therefrom. The report of the Court Commissioners will also be considered on that day.

11. We make it clear that the issues concerning the implementation of GRAP IV will be considered on 25<sup>th</sup> November 2024, and the other matters ordered to be considered on 25<sup>th</sup> November 2024 will be postponed.

IA No.209845/2024

12. We permit the applicant to furnish fresh particulars of respondent no.6. If fresh particulars are furnished, issue notice to respondent no.6, returnable after three weeks.

13. Dasti, in addition, is permitted.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER