

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 447/2018

IN THE MATTER OF:

Kaushambi Apartments Residents
Welfare Association (KARWA) ... Applicant

Versus

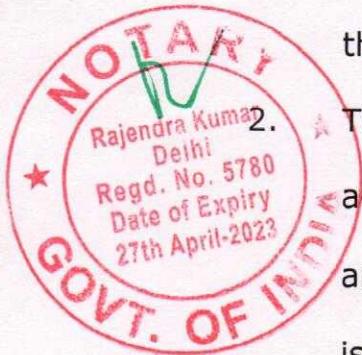
District Magistrate, Ghaziabad & Anr. ...
Respondents

**COMPLIANCE AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO.2 GHAZIABAD NAGAR NIGAM,
GHAZIABAD**

I, Deshraj, son of Sri Chohal Singh, aged about 47 years, posted as Executive Engineer, Ghaziabad Nagar Nigam, Ghaziabad, U.P. presently at New Delhi do hereby solemnly affirm and state as under:

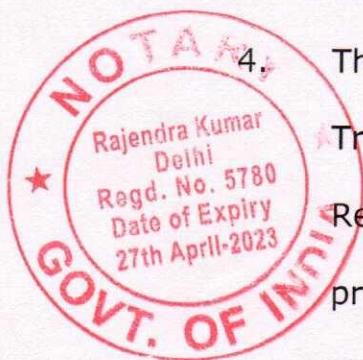
1. That the deponent is working as the Executive Engineer, Ghaziabad Nagar Nigam and is well conversant with the facts and circumstances of the case and hence, competent to swear this affidavit.

2. That I have read and understood the contents of the accompanying affidavit and various averments made therein are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed.



3. That it is most respectfully submitted that in the present case titled as Kaushambi Apartment Residents Welfare Association (KARWA) vs. District Magistrate Ghaziabad & Anr. (O.A. 447/2018), the issue pertains to the drains in the area of Kaushambhi, Ghaziabad. This Hon'ble Tribunal vide order dated 01.08.2018 took remedial action against the pollution of the storm water drain in Ghaziabad. Subsequently, vide order dated 25.04.2019 the District Magistrate, Ghaziabad and Municipal Commissioner Ghaziabad were directed to prepare the action plan and further, the execution of the said action plan was to be overseen by the Member Secretary, Uttar Pradesh Pollution Control Board (UPPCB). It is further submitted that the matter was reviewed vide the said order in view of compliance report dated 11.01.2019 filed by UPPCB and affidavit dated 22.04.2019 filed by Ghaziabad Nagar Nigam, hereinafter referred to as the Answering Respondent. Thereafter, seven drains were identified vide order dated 25.04.2019, remedial steps have already been taken with regard to two of the aforesaid seven drains and as far remaining five drains are concerned, repair work has been initiated by the Answering Respondent.

4. That it is most respectfully submitted that this Hon'ble Tribunal, vide order dated 30.10.2019, directed the Answering Respondent to file Compliance Report on 31.01.2020 (for progress made till the said date) and a final compliance report on 30.04.2020. During the hearing on 30.10.2019 a chart



(status report showing the current status of the drains) was handed over by the Answering Respondent to the Hon'ble Judges, reflecting the work orders that had been issued with regard to the remaining five drains and a submission was made that the work would in all probability be executed within a period of three to six months.

5. That it is most respectfully submitted that in light of the aforesaid direction issued by the Hon'ble Tribunal vide order dated 30.10.2019, the following chart enumerates the compliance with regard to the current status of the seven drains that were identified by this Hon'ble tribunal:

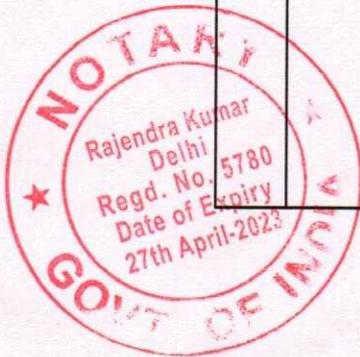
S.N	Details of the drain	Compliance dated 31.01.2020
1.	From Jaipuria Apartment to Samrat Hotel	<p>It has been recorded vide order dated 25.04.2019 and again vide order dated 30.10.2019 that the remedial steps have been taken in regard to the said drain. Damages have been repaired.</p> <p>It was informed that there was discharge of untreated sewage in the drain of the village Bhowapur. It was found that the locals of the said village had damaged the wall/ boundary and the untreated sewage was being discharged in the manhole.</p> <p>The damaged wall has now been repaired, which has now stopped the discharge of the untreated sewage into the manhole.</p>
2.	From Udaygiri Apartment to Panchmani Apartment	<p>No sewage water or water used for cleaning houses from these apartments is flowing in this drain.</p> <p>For the repair of the drain by Dens from Udaigiri tower to Panchmani tower and Sumeru Tower to Mayagiri tower in Kaushambi ward No. 72, work order has been given to M/s P.P. Relcon Pvt. Ltd. on 21.10.2019. The repair work has already started and is in progress and uptill now</p>



		approximately more than 10% of the work has been completed.
3.	From Sumeru Apartment to Malaygiri Apartment	There were three leakages in the sewage manhole that have been repaired. Consequently, no sewage water is flowing into the drain. For the repair of the drain by Dens from Sumeru Tower to Mayagiri tower in Kaushambi ward No. 72, work order has been given to M/s P.P. Realcon Pvt. Ltd. on 21.10.2019. The repair work has started and is in progress more than 10% of the work has been completed.
4.	From Dabur to wave Cinema	It has been recorded vide orders dated 25.04.2019 and 30.10.2019 passed by this Hon'ble Tribunal, that the remedial steps have been taken with regard to the said drain and the said repair work has now been completed.
5.	From Central Park to Wave Cinema	Presently, no sewage water is flowing into this drain. For the Construction of the RCC drain behind the Metro Station Ganesh Hanuman temple to wave Mall, Work order has been given to M/s Shantanu Constructions on 21.10.2019 and the work already in progress.
6.	From Nanda Tower T-point to Shivalik Tower	No sewage water is flowing into this drain. For the repair of the drain by Dens from Nanda Tower via Shivalik Tower to Kamadgiri Tower the work order has been given to M/s Shriji Infra Project Pvt. Ltd. on 21.10.219 and the said work is in progress.
7.	From Shivalik Tower to Kamadgiri	The drain had two leakages in the sewage manhole between Shivalik Tower and Kamadgiri Tower which have been repaired. For the repair of drain by Dens from Nanda tower via Shivalik tower to Kamadgiri Tower work order has been given to M/s Shriji Infra Project Pvt. Ltd on 21.10.2019. For the repair of drain by Dens from Kamadgiri behind Metro station to Metro Pillar No. 179, work order has been given to M/s Shriji Infra Project Pvt. Ltd on 21.10.2019 and the said work is in progress.

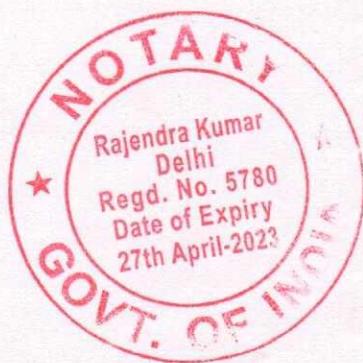
A true and correct copy of the chart is marked and annexed as

Annexure A-1 to this Compliance Affidavit.



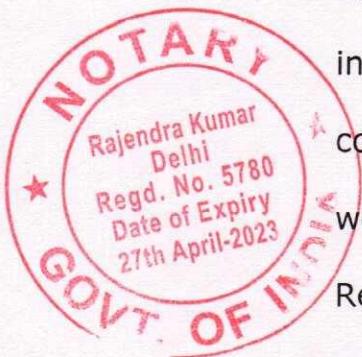
6. That it is most humbly submitted that the aforesaid construction work which was to commence from the first week of November for all the drains was delayed due to the reasons which were beyond the control of the answering respondent. However the Answering Respondent yet tenders an unconditional apology to this Hon'ble Tribunal for the delay caused. It is further submitted that the reason for delay in the commencement of work are as follows:

- a) The Hon'ble Supreme Court in Writ Petition (Civil) No. 13029/1985 M.C. Mehta vs. Union of India & Ors. passed an order dated 04.11.2019 putting a blanket ban on all demolitions and constructions in the National Capital Region, to improve the air quality index which had reached dangerous levels due to the crop stubble burning in Punjab and Haryana and fire crackers burnt during the festival of Diwali. The hearing of the case was held on weekly basis and the ban was extended every week as there was no improvement in the air quality of the National Capital Region. The ban was partially lifted on 09.12.2019 allowing construction from 6am-6pm subject to criteria stipulated in Graded Response Action Plan (GRAP) which mandated strict enforcement of rules for dust control at construction activities and closure of non-compliant sites during moderate to poor AQI category days. This ban on construction caused a major setback in the repair work. The commencement of the projects was delayed by over a month. A true and correct copy of the Supreme Court order dated 04.11.2019 and has been marked and annexed as **Annexure A-2** to this Affidavit.



b) That it is most humbly submitted that construction and repair of drains require the use of warm mix asphalt which is heated and poured at temperatures ranging from 300 degrees to 350 degrees Fahrenheit, as this flexible mix is highly weather resistant and it helps in repelling water which is why it is a preferred choice for construction of highways, roads, drains, etc. The hot mix asphalt cools down very quick hence can only be used on days that have a temperature above 40 degrees. As the temperatures in December and January were extremely low, much below the required 40 degree Fahrenheit grade the municipal corporation could not take risk of carrying out the construction as it could have led to wastage of material leading to losses. It is relevant to mention here that as soon as the temperate became appropriate for construction and use of hot mix asphalt, on 20.01.2020 construction work for the drains has been started and is under progress. The aforesaid has been reiterated by the answering respondent vide letter dated 22.01.2020. A true and correct copy of the letter dated 22.01.2020 has been marked and annexed as **Annexure A-3** to this Affidavit.

7. That it is humbly submitted that the answering Authority is working to the best of their ability despite facing aforesaid situations and making full efforts to complete the repair work at the earliest possible. It is relevant to mention here that inordinate delay in the commencement of the work will consequently lead to a delay in the said completion work as well. It is therefore a humble request from the Answering Respondent to this Hon'ble Tribunal that the time period for completion of the work may be extended. The Ghaziabad



Nagar Nigam most humbly prays for an extension of further time by a period of six months so that all the compliances are duly completed and adequate report is submitted before this Hon'ble Tribunal for kind perusal.

[Signature]
DEPONENT

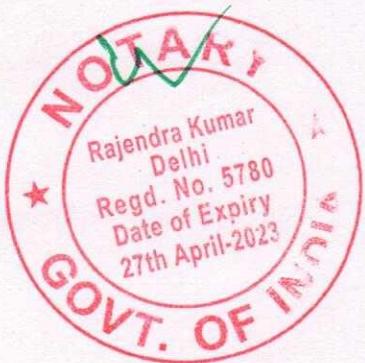
VERIFICATION:

I, the deponent above named do hereby solemnly swear and verify that the contents of above mentioned paragraphs of this affidavit are true to my knowledge; and are based on the perusal of record and on legal advice which all I believe to be true and no part of it is false and nothing material has been concealed.

Verified at New Delhi on 20 day of January, 2020.

[Signature]
DEPONENT

IDENTIFIED



~~ATTORNEY~~
RAJENDRA KUMAR
NOTARY, DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No.

9899446209
28.01.2020

RAJENDRA KUMAR, NOTARY, Reg. No. 5780
F No.-5(486)
EMPOWERED TO ADMINISTER THE OATH
SECTION 139 OF CPC 1908
SECTION 297 OF CRPC 1973
DELHI HIGH COURT RULES 1967
PART-6, CHAPTER XVIII-227
EVIDENCE BY AFFIDAVIT BEFORE NOTARY
SUPREME COURT RULES, 2013
ORDER IX-7

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
DEPONENT EXECUTIVE WHO IS SEEMED PERFECT TO
UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT
DELHI ON..... IDENTIFIED BY

IDENTIFY THE EXECUTIVE / DEPONENT WHO HAS
SIGNED IN MY PRESENCE

[Signature]
28.01.2020

0128050

IDENTIFIED

जोन	वार्ड संख्या	कार्य का विवरण	बजट शीर्षक	आगण धनांक (रु० में)	निविदा धनांक (रु० में)	टेकेदार/फर्म का नाम	कार्यादेश जारी जाने की तिथि	कार्यादेश के अनुसार कार्य समाप्ति की तिथि	कार्य की वर्तमान स्थिति	मासिक प्रगति (प्रतिशत में)
वसुन्धरा	72	वार्ड-72, कौशांबी में मैट्रो स्टेशन के पीछे गणेश हनुमान मन्दिर से लेकर वेव मॉल तक आर०सी०सी० नाला निर्माण।	अवस्थापना निधि 18-19	4984000.00	4397383.00	शान्तनु कन्सो	28-Oct-19	27-Apr-20	कार्यादेश जारी	111
वसुन्धरा	72	वार्ड-2, कौशांबी में नन्द टावर से सतपडा होते हुए गंगा टावर तक डेस द्वारा सड़क सुधार कार्य तथा नन्दा टावर से शिवालिक टावर होते हुए कामधगिरी टावर तक नाला निर्माण एवं डेस द्वारा सड़क सुधार।	अवस्थापना निधि 18-19	12995000.00	10350517.00	श्रीजी इन्फ्रा प्रोजेक्ट प्रा०लि०	21-Oct-19	21-May-20	प्रगति पर	3 month
वसुन्धरा	72	वार्ड-72, कौशांबी में मैट्रो स्टेशन के पीछे कामधगिरी से मैट्रो पिलर नं०-179 तक आर०सी०सी० नाला निर्माण।	अवस्थापना निधि 18-19	4985000.00	4449112.00	श्रीजी इन्फ्रा प्रोजेक्ट प्रा०लि०	21-Oct-19	21-Apr-20	कार्यादेश जारी	3 month
वसुन्धरा	72	वार्ड-72, कौशांबी में विद्यालय से धोलगिरी अपार्टमेंट तक डेस द्वारा सड़क सुधार तथा सुमेरू टावर से मलगिरी व उदयगिरी टावर से पंचमणी टावर तक नाला निर्माण एवं डेस द्वारा सड़क सुधार।	अवस्थापना निधि 18-19	13827000.00	10072960.00	पी.पी. रियलकॉन प्रा.लि.	21-Oct-19	21-May-20	प्रगति पर	10 प्रतिशत
वसुन्धरा	72	वेव मॉल से आई.सी.आई.सी.आई बैंक होते हुए सम्राट होटल की ओर नाली निर्माण एवं टावर के पीछे डेन्स द्वारा सड़क सुधार।	अवस्थापना निधि 18-19	14900000.00	10936600.00	आर.जी.बिल्डटेक इन्जी.लि.	5-Apr-19	4-Oct-19	प्रगति पर	90 प्रतिशत
वसुन्धरा	72	भौवापुर से उदय गिरी टावर की ओर आर.सी.सी. नाला निर्माण तथा डेन्स द्वारा सड़क सुधार।	अवस्थापना निधि 18-19	21094000.00	17550208.00	आर.जी. बिल्डटेक इन्जी.लि.	15-Jun-19	14-Mar-20	प्रगति पर	90 प्रतिशत
				72785000.00	57756780.00					

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V.G.S.
T.C.

D-5

D-6

D-7

P-283

ITEM NOS. 302 & 304

COURT NO. 3

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)
IN RE: STUBBLE BURNING
- (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) IN RE: DIESEL VEHICLES
- (4) IA NO. 79444/2019 (APPLN. FOR DIRECTIONS ON BEHALF OF EAST DELHI MUNICIPAL CORPOATION)
- (5) IA NO. 177432/2018 (APPLN. FOR DIRECTIONS ON B/O NORTH DELHI MUNICIPAL CORPORATION)
- (6) IA NO. 142872/2019 (APPLN. FOR MODIFICATION OF ORDERS DT. 16.12.2015 AND 31.03.2016 ON B/O DY. COMMISSIONER OF POLICE) IN RE: PARKING POLICY
- (7) REPORT NO. 104 SUBMITTED BY EPCA (REGARDING PARKING PLANS FOR KRISHNA NAGAR, KAMLA NAGAR, TECHNOLOGY FOR PARKING MANAGEMENT AND PLANS FOR LAST MILE CONNECTIVITY) IN RE: THREE WHEELERS
- (8) IA NO. 176097/2018 (APPLN. FOR CLARIFICATION ON B/O BAJAJ AUTO LTD. ALONGWITH REPORT NOS. 95 AND 105 SUBMITTED BY EPCA)
- (9) IA NO. 39622/2019 (APPLN. FOR INTERVENTION IN IA NO. 176097/2018 ON B/O PIAGGIO VEHICLES PVT. LTD.)
- (10) IA NOS. 72210 AND 72236/2018 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O NYAY BHOO MI)
- (11) IA NOS. 119813 AND 119815/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O BHARTIYA TIPAH IYA CHALAK SANGH)
- (12) IA NO. 110238/2019 (APPLN. FOR DIRECTIONS ON BEHALF OF DELHI METRO RAIL CORPORATION LTD.)

WITH
SLP(C) No. 13208/1998 (XVI)

WITH
No. 9780-9782/2018 (XVII)

Signature Not Verified
Digitally signed by NARENDRA KUMAR AD
Date: 2019.11.05
14:35:48 IST
Reason: I

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
127600/2018
FOR EX-PARTE AD-INTERIM RELIEF ON IA 127603/2018
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 24860/2019

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IA No. 127603/2018 - EX-PARTE AD-INTERIM RELIEF
IA No. 127600/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

C.A. No. 9783/2018 (XVII)

(IA No. 118214/2019 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 88157/2019 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 163563/2018 - CLARIFICATION/DIRECTION
IA No. 127540/2018 - EX-PARTE AD-INTERIM RELIEF
IA No. 127539/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 118211/2019 - INTERVENTION APPLICATION
IA No. 69892/2019 - INTERVENTION/IMPLEADMENT
IA No. 97168/2019 - INTERVENTION/IMPLEADMENT
IA No. 97157/2019 - INTERVENTION/IMPLEADMENT
IA No. 163563/2018 - INTERVENTION/IMPLEADMENT
IA No. 97150/2019 - INTERVENTION/IMPLEADMENT
IA No. 121389/2019 - INTERVENTION/IMPLEADMENT
IA No. 97140/2019 - INTERVENTION/IMPLEADMENT
IA No. 119161/2019 - INTERVENTION/IMPLEADMENT
IA No. 97130/2019 - INTERVENTION/IMPLEADMENT
IA No. 97119/2019 - INTERVENTION/IMPLEADMENT
IA No. 89253/2019 - INTERVENTION/IMPLEADMENT
IA No. 99434/2019 - INTERVENTION/IMPLEADMENT
IA No. 99431/2019 - INTERVENTION/IMPLEADMENT)

C.A. No. 9785/2018 (XVII)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
133034/2018, FOR EX-PARTE AD-INTERIM RELIEF ON IA 133038/2018
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 157075/2018
IA No. 157075/2018 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 133038/2018 - EX-PARTE AD-INTERIM RELIEF
IA No. 133034/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Diary No(s). 48292/2018 (XVII)

(IA FOR PERMISSION TO FILE APPEAL ON IA 15065/2019
FOR CONDONATION OF DELAY IN FILING APPEAL ON IA 15067/2019
FOR EX-PARTE STAY ON IA 15068/2019
FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
15070/2019
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
15071/2019
IA No. 15067/2019 - CONDONATION OF DELAY IN FILING APPEAL
IA No. 15068/2019 - EX-PARTE STAY
IA No. 15070/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 15071/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 15065/2019 - PERMISSION TO FILE APPEAL)

C.A. No. 4906-4907/2019 (XVII)

(IA No. 58284/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

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C.A. No. 3610-3611/2019 (XVII)

Diary No(s). 12263/2019 (XVII)
(FOR ADMISSION and IA No.67873/2019-PERMISSION TO FILE APPEAL and
IA No.67874/2019-CONDONATION OF DELAY IN FILING APPEAL and IA
No.67876/2019-APPROPRIATE ORDERS/DIRECTIONS and IA No.67875/2019-
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 04-11-2019 These petitions were called on for hearing today.

CORAM :

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

Counsel for the parties

Mr. Harish N. Salve, Sr. Advocate (A.C.)
[Not Present]

Ms. Aparajita Singh, Sr. Advocate (A.C.)

Mr. A.D.N. Rao, Advocate (A.C.)

Mr. Siddhartha Chowdhury, Advocate (A.C.)

Mr. A. N. S. Nadkarni, ASG
Mr. S. Wasim A. Qadri, Sr. Adv.
Mr. D. L. Chidananda, Adv.
Ms. Suhasini Sen, Adv.
Mr. Rajesh K. Singh, Adv.
Mr. S. S. Rebello, Adv.
Ms. Archana Pathak Dave, Adv.
Mr. Vibhu Shankar Mishra, Adv.
Mrs. Snidha Mehra, Adv.
Mr. B.V. Balramdas, Advocate
Mr. Raj Bahadur Yadav, Adv.
Mr. G. S. Makker, Adv.
Ms. Anil Katiyar, Advocate

Mr. A.N.S. Nadkarni, ASG
Mr. S. Wasim A. Qadri, Sr. Adv.
Mr. M. Samantaraj, Adv.
Ms. Ruchira Gupta, Adv.
Mr. B.V. Balramdas, Adv.
Mr. Merusagar Samantray, Adv.

Mr. K.M. Natraj, ASG
Mr. Nishesh Sharma, Adv.

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Ms. Suhasini Sen, Adv.
Mr. Rajan Kr. Chourasia, Adv.
Mr. G.S. Makker, Adv.

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Senthil Jagadeesan, Advocate
Ms. Sonakshi Malhan, Adv.
Ms. Shruiti Chowdhary, Adv.
Ms. Mrinal Kanwar, Adv.
Ms. Shrutanjaya Bhardwaj, Adv.

Mr. Dhruv Mehta, Sr. Adv.
Mr. Chirag M. Shroff, Adv.
Ms. Mahima C. Shroff, Adv.
Ms. Yashika Verma, Adv.
Ms. Riya Thomas, Adv.

Mr. K. V. Vishwanathan, Sr. Adv.
Ms. Pritha Srikumar Iyer, Advocate
Mr. Arun Srikumar, Adv.
Ms. Mansi Binjrajka, Adv.

Mr. Devadat Kamat, Sr. Adv.
Mr. Hardik Luthra, Adv.
Mr. Ram Parashar, Adv.
Mr. Alok Shukla, Advocate

Mr. Sanjiv Sen, Sr. Adv.
Mr. Praveen Swarup, AOR
Mrs. Puja Kalra, Adv.
Mr. B.C. Santosh Kumar, Adv.
Mr. Suvesh Kumar, Adv.

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

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

Ms. Ruchi Kohli, Advocate

Ms. Garima Prashad, Adv.
Mr. G. S. Oberoi, Adv.
Mr. Mohit Kumar Bansal, Adv.

Mr. Ajay Bansal, Adv.
Mr. Praveen Swarup, Adv.
Mr. Suvesh Kumar, Adv.
Ms. Puja Kalra, Adv.
Mr. Suvesh Kumar, Adv.

Mr. Pranav Sachdeva, Advocate
Ms. Neha Rathi, Adv.
Mr. Jatin Bhardwaj, Adv.

Ms. Monika Arora, Adv.
Mr. Akash Deep Gupta, Adv.
Mr. Mohit D. Ram, Advocate
Mr. Vishal Khanna, Adv.
Mr. Nitish Pathania, Adv.

Mr. Tarun Johri, Advocate
Mr. Ankur Gupta, Adv.

Petitioner-In-Person

Mr. B.K. Prasad, Advocate

Mr. Satya Mitra, AOR

Ms. Nidhi Mohan Parashar, AOR

Mr. Yoginder Handoo, AOR

Mr. Nikunj Dayal, AOR

Mr. Nishant Kumar, Adv.
Ms. Maya Mukherjee, Adv.

Mr. Naresh Kaushik, Adv.
Mr. Manoj Joshi, Adv.
Mr. lakshay Juneja, Adv.
Mr. Rahul Sharma, Adv.
Mrs. Lalita Kaushik, AOR

Mr. Saurabh Mishra, AOR
Mr. Abhishek Singh, Adv.
Mr. Samridhi Pal, Adv.
Ms. Aashnaa Bhatia, Adv.

Mr. Chandan Kumar, AOR
Mr. Gaurang Kanth, Adv.
Ms. Prapti Mehta, Adv.

Mr. R.K. Vats, Adv.
Ms. Susmita Lal, AOR

Mr. Siddharth Acharya, Adv.
Mr. Ankur Kumar, Adv.
Ms. Megha Sharma, Adv.
Mr. Nitesh mankar, Adv.
Mr. Shree Pal Singh, AOR

Mr. Ashish Rana, AOR

Mr. Satya Mitra, AOR

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

I.A. NO.130216 & 130219

These applications were mentioned for listing.

List after two weeks.

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 (IA NOS. 127792/2017, 158128 & 158129/2019

We have heard Mr. Bhurelal, who has pointed out about irrigation.

We have also heard some experts from the Ministry and the IIT and learned senior counsel for the parties and Amicus Curiae.

Today everyone is concerned about level of pollution in Delhi and NCR region. This is not something new, every year this kind of piquant situation arises for a substantial period. It is compounded by the fact that year to year in spite of various directions issued by High Court, other authorities including this Court the State Governments, Government of NCT of Delhi and the corporations of Delhi and nearby States are not performing their duties as enjoined upon them. This is a shocking state of affairs in which we are put as on today. This is blatant and grave violation of right to life of the sizeable population by all these actions and the scientific data which has been pointed out indicates that life span of the people is being reduced by this kind of pollution which is being

created and that people are being advised not to come back to Delhi or to leave the Delhi due to severe pollution condition which has been created. There cannot be large scale exodus. People have to perform their duty in Delhi also and people cannot be evacuated from Delhi being a capital city. We are at a loss to understand why we are not able to create a situation in which this kind of pollution does not take place, that too in a routine manner every year. Obviously, it is writ large that the State Governments, Government of NCT of Delhi and civic bodies have miserably failed to discharge their liability as per the directive principles of State Policy which have found statutory expression, they are being made statutory mockery and also the directions of this Court and High Courts in this regard are being violated with impunity.

Time has come when we have to fix the accountability for this kind of situation which has arisen and is destroying right to life itself in gross violation of Article 21 of the Constitution of India. No farmer can be said to be having a right under the guise that he is not having sufficient time to use the stubble for the purpose of manure, since they have less time between two crops, cutting and sowing of next crop. As such, they cannot by burning it in their fields, put life of sizeable population in jeopardy.

It is apparent from the satellite images which has been produced before us for the period 30.10.2019 to 04.11.2019. The satellite image clearly indicates that in Punjab there is widespread stubble burning which has taken place as compared to Haryana, in which only in four districts it has taken place. There is some burning in Western U.P. also. It could not have taken place

even in a singular district or gram panchayat area as we live in a civilized country in which such kind of activities which create such menacing pollution not only in the area concerned but to the neighbouring States also, by ill-effects of that people cannot be left to die or to suffer various ailments.

Everybody has to be answerable including the top state machinery percolating down to the level of gram panchayat. The very purpose of giving administration power up to the panchayat level is that there has to be proper administration and there is no room for such activities. The action is clearly tortuous one and is clearly punishable under statutory provisions, besides the violation of the Court's order. In the circumstances, as widespread stubble burning has taken place, we direct the States of Punjab and Haryana and adjoining State of Uttar Pradesh where there is blatant violation which has taken place, to halt it. We direct the Chief Secretaries of the States of Punjab, Haryana and Uttar Pradesh to be present in this Court on 06.11.2019 including Chief Secretary of Government of NCT of Delhi.

We direct the Chief Secretaries of the State Governments, District Collectors, Tehsildars, Director General, IG/SP and other police officers of the area of concerned police station and the entire police machinery to ensure that not even a single incident takes place of stubble burning henceforth. If it is found that any stubble burning has been made not only that person doing it will be hauled up for the violation of the order passed by this Court but the entire administration, right from the Chief Secretary, Commissioner, Collector and all other concerned

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functionaries and Panchayats. Gram Pradhan/Sarpanch Panchayat are also directed to ensure that no such stubble burning takes place.

Let the State Governments of Punjab, Haryana and Uttar Pradesh and officials also explain that why they should not be asked to pay the compensation for tortious liability as they have acquiesced and due to their failure in preventing stubble burning which is in utter violation of the Public Trust doctrine, why they should not be held liable to compensate, and also the incumbents who are burning the stubble in spite of clear restrictions imposed by this Court and statutory prohibition.

We also direct the Sarpanch of each and every Panchayat and SHO of the concerned area to prepare inventory of the incumbents who have burnt the stubbles in their fields. We also direct the Sarpanch, Gram Panchayat as well as the concerned police of the area and local administration including the Collector and all subordinate authorities to ensure that no further stubble burning takes place. In case, any stubble burning takes place responsible machinery from top to bottom and Sarpanch, Gram Panchayat shall be liable for tortuous act and for not complying with the order passed by this Court and let the Gram Panchayat also advise forthwith the villagers not to involve in stubble burning any more and take appropriate action.

We also direct the State Governments, Central Government as well as the Government of NCT of Delhi to take immediate steps to take care of the emergent situation due to air pollution which has taken place. No doubt about it that everybody knows the situation,

let the steps be taken forthwith with the help of the experts. We direct the Government of NCT of Delhi as well as various corporations to work in tandem and to see that waste and garbage which is contributing to air pollution is tackled at war level. The efforts should be made right from today without any loss of time.

Let the EPCA consider as it was suggested by Ms. Aprajita Singh, learned senior counsel and the learned Amicus Curiae that diesel vehicle should not enter the Delhi. Let the EPCA immediately take the steps in this regard as may be considered appropriate as it has the power to do the needful taking care of the emergent situation.

With respect to demolition and construction activities we direct that no demolition and construction activities take place in Delhi and NCR region. In case it is found that such activity is done, the local administration as well as the municipal authorities including the Zonal Commissioners, Deputy Zonal Commissioners shall be personally held responsible for all such activities. They have to act in furtherance of the Court's order and to ensure that no such activity takes place.

We are informed that use of coal based industries have been stopped. In case any violation of this is found the concerned person including Zonal Deputy Commissioner would be liable for violation of the order of this Court and liable to be punished for contempt of Court.

It was also pointed out by Mr. Sanjiv Sen, learned senior counsel, that during odd/even scheme in Delhi more use of two

wheelers and three wheelers has taken place and they are being plied more causing equal pollution, as such no useful purpose is being served by stopping the use of certain vehicles only on the basis of odd and even numbers. He has also pointed out that it would be appropriate to stop the use of diesel vehicle, in case it is necessitated as the diesel vehicles cause more pollution as compared to petrol and CNG vehicles. Let the Government of NCT of Delhi explain this aspect and file the data in this regard in the Court on the basis of the previous experience and whether if three wheelers and taxies are plying more on road during such restriction and relevant data be placed.

During Odd/Even Scheme what is the difference being caused by stopping use of four wheelers when various other contributory factors are not taken care of by Government of NCT of Delhi. An affidavit has been filed by the Ministry of Environment and Forest, in which in paragraph 10 following facts have been mentioned. Air quality, winter inspections 2019-20 status till 31.10.2019 is extracted hereunder:-

"AIR QUALITY WINTER INSPECTIONS' (2019-2020) STATUS - till 31.10.19

Total complaints lodged : 1646

Total inspections - 249

Major Sources reported

C&D	Open dumping of waste/garbage	Unpaved Road/Pit	Road Dust	Garbage Burning	Traffic Congestion
496	407	217	154	126	81

Prominent districts reporting above mentioned major violations :

Source	Delhi	NCR
C&D	<ul style="list-style-type: none"> • New Delhi District (10.3%) • East district (9.8%) • West district (8.2%) 	<ul style="list-style-type: none"> • Noida (12%) • Faridabad (11.7%) • Gurugram (South) (10.9%) • Ghaziabad (8.5%)
Open dumping of waste/garbage	<ul style="list-style-type: none"> • North East district (17.44%) • East district (14.98%) • South district (7.8%) 	<ul style="list-style-type: none"> • Noida (9.58%) • Faridabad (8.84%) • Gurugram (South) (6.14%) • Ghaziabad (5.4%)
Unpaved Road/Pit	<ul style="list-style-type: none"> • South West (10.59%) • East and south district (9.67%) • North West district (7.37%) 	<ul style="list-style-type: none"> • Ghaziabad (12.44%) • Faridabad (9.21%) • Noida (8.75%)
Road Dust	<ul style="list-style-type: none"> • East district (22.72%) • North West district (7.14%) • North district (5.8%) 	<ul style="list-style-type: none"> • Ghaziabad (16.23%) • Meerut (11.6%) • Noida (8.44%) • Sonipat (5.84%)
Garbage Burning	<ul style="list-style-type: none"> • North West district (13.5%) • North district (10.3%) • North east district (9.5%) 	<ul style="list-style-type: none"> • Gurugram (South) (15.1%) • Noida (12.7%) • Faridabad (9.5%)
Traffic Congestion	<ul style="list-style-type: none"> • North district (23.5%) • East district (13.6%) • Central district (11.1%) 	<ul style="list-style-type: none"> • Ghaziabad (4.9%) • Noida (3.7%)

Major polluting activities defined in identified hotspot regions

1. Jahangirpuri
 - Open dumping of garbage & C&D
 - Traffic congestion
2. Rohini

- Road dust
 - Open dumping of garbage
3. **Bawana**
 - C&D & Unpaved roads
 - Open dumping of garbage & road dust
 4. **Ashok Vihar**
 - Open dumping of garbage & C&D
 - Road dust
 5. **Wazirpur**
 - Open dumping of garbage
 - C&D
 6. **Vivek Vihar**
 - Traffic congestion
 - C&D
 - Open dumping of garbage & road dust
 7. **Anand Vihar**
 - C&D
 8. **Punjabi Bagh**
 - C&D
 9. **Mundka**
 - Unpaved roads
 - C&D and industrial waste dumping
 10. **Narela**
 - Industrial waste - dumping & burning
 - Garbage - dumping & burning
 11. **Okhla**
 - Open dumping of garbage
 - Open dumping of industrial waste and C&D
 12. **Dwarka**
 - C&D
 - Unpaved road
 13. **Mayapuri**

- Unpaved road
 - Road dust
14. **Sahibabad**
- Unpaved road
 - Road dust
 - Open waste dumping
 - C&D
15. **Udyog Vihar**
- Open dumping of garbage
 - Unpaved roads"
16. **Faridabad**
- C&D
 - Open dumping of garbage
 - Unpaved roads
 - Open burning
 - Industrial waster dumping

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As per the Air Quality Inspection Construction and demolition activities in Delhi/NCR region causing damage in NOIDA, Faridabad, Gurugram, Ghaziabad as well as instances of Delhi have also been mentioned.

1. Construction and demolition
2. There is open dumping of waste/garbage.
3. Unpaved road/pit.
4. Road dust.
5. Garbage burning.
6. Traffic congestion.

We direct that construction, demolition and activities be stopped forthwith as well as garbage burning. In case, any person

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is found in construction and demolition activity and garbage burning in Delhi and NCR region, he/she shall be penalized. Any person is doing construction and demolition activity in violation of this order, shall be penalized with Rs.1 Lac for such activity. For garbage burning he/she shall be penalized with Rs.5,000/- and besides liable for violation of the order passed by this Court to be dealt with in accordance with law.

With respect to open dumping of waste and garbage, we direct the Government of NCT of Delhi as well as the concerned Municipal Corporation to chalk out immediate plan and to ensure that waste and garbage to be removed to safe places forthwith and also to ensure that no open dumping takes place. We direct Zonal Deputy Commissioner to be responsible with other officers in this regard. Let road-maps be prepared so as to provide proper amenities in order to prevent open dumping of waste and garbage, and be placed before this Court within four weeks.

For taking care of the road dust let water sprinklers/dust suppressors be used on the roads. An IIT expert suggested about the appropriate water pressure for the sprinklers. At what pressure water should be sprinkled so as to reduce the pollution and dust so that it does not add to the pollution. Let the Corporations act on advice of the expert of the IIT. Such roads where traffic congestion is more, let traffic plan be also prepared in such a manner so that there is no extra burden on a particular road so that traffic congestion is taken care of. It is for the concerned traffic authorities to take immediate steps in this regard.

Since we are fixing the liability on the person responsible

for inaction at the village level as well as three States in the NCR regions as well as Delhi, let the widest publicity by all means of publication i.e. Television, Media, newspapers, Radio be made. In Gram Panchayats by beat of drums also and other modes to ensure that villagers are made aware of their responsibility and liability towards the other humans so that they do not involve in such acts. Let the Gram Panchayat, police station, district and taluk levels by the concerned administration take steps in this regard. Let the State Governments also take the requisite steps to extinguish the stubbles which are burning and for that let State Level High Level Committee meet forthwith and take appropriate decision and implement it. Steps taken be informed to this Court on 06.11.2019 by the concerned Chief Secretaries of the three States and Government of NCT of Delhi.

Let the concerned authorities of EPCA meet forthwith and take a call in this regard with respect to industrial activities which are causing pollution how to control it. We also direct all pollution control Boards of three States and Government of NCT of Delhi that polluting industries/activities against norms are put to halt forthwith.

It was also submitted by M/s. Sanjiv Sen and Gopal Sankaranarayanan, learned senior counsel that in certain States generators are also being used which increase pollution mainly due to cut off of the electricity supply. Generators in Delhi also add to pollution in Delhi as well as in NCR region. Let the State Governments and Government of NCT of Delhi ensure that electricity is not cut so that generators are not used and let no generators be

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used till next date of hearing except in emergency/healthcare services.

Let the State Governments, NCT of Delhi and also the Government of India prepare a road map for preventing this kind of situation in future and be placed before this Court, within three weeks. Let the Action Taken Report be submitted within four weeks.

Directions/order to be effective unless otherwise ordered.

List on 06.11.2019 at 3.30 P.M.

REST OF THE MATTERS

List on 08.11.2019.

(NARENDRA PRASAD)
COURT MASTER

(PRADEEP KUMAR)
COURT MASTER

NSB
(T.C.)

कार्यालय गाजियाबाद नगर निगम, गाजियाबाद।

पत्रांक 766 निर्माण/2019-20

दिनांक : 22/01/2020

सेवा में,

अपर नगर आयुक्त,
गाजियाबाद नगर निगम।

विषय:- माननीय राष्ट्रीय हरित अधिकरण के समक्ष विचाराधीन ओ.ए. संख्या 447/2018 कौशाम्बी अपार्टमेंट रैजिडेंट्स वेलफेयर एसो0 बनाम जिला मजिस्ट्रेट गाजियाबाद व अन्य में पारित आदेश दिनांक 30.10.2019 के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक आपके कार्यालय पत्रांक 343/विधि/एन.जी.टी./2019-20 दिनांक 18 जनवरी 2020 का सन्दर्भ ग्रहण करने का कष्ट करें। पत्र में आपके द्वारा माननीय राष्ट्रीय हरित अधिकरण के समक्ष विचाराधीन ओ. ए. संख्या 447/2018 कौशाम्बी अपार्टमेंट रैजिडेंट्स वेलफेयर एसो0 बनाम जिला मजिस्ट्रेट गाजियाबाद व अन्य में निर्माण विभाग द्वारा मा0 अधिकरण के आदेश के अनुपालन में पॉच नालों के निर्माण कार्य हेतु ई-निविदा आमंत्रित की गयी थी, जिसमें वार्ड 72 कौशाम्बी में मेट्रो स्टेशन के पीछे गणेश हनुमान मन्दिर से लेकर वेव मॉल तक तथा वार्ड 72 कौशाम्बी में मेट्रो स्टेशन के पीछे कामधगिरी से मेट्रो पिलर नम्बर-179 तक आर.सी.सी. नालों के निर्माण कार्य को पूर्ण करने हेतु तीन माह का समय दिया गया था। आपके द्वारा क्रमशः उक्त स्थलों पर कार्य करने हेतु 21.10.2019 व 28.10.2019 को कार्यदेश जारी किये जा चुके हैं। परन्तु उक्त स्थलों पर कार्यों की प्रगति आख्या शून्य होने के सम्बन्ध में आख्या चाही गयी है। आप द्वारा प्रदान किये गये आदेश के अनुपालन में आख्या निम्नवत् है :-

मा0 सर्वोच्च न्यायालय के समक्ष विचाराधीन याचिका सं0 13029/1985 एम.सी. महता बनाम यूनियन ऑफ इण्डिया में दिनांक 04.11.2019 में एन.सी.आर में बढ़ते वायु प्रदूषण के दृष्टिगत उ0प्र0 सहित कई राज्यों में निर्माण कार्यों पर रोक लगा दी गयी। दिसम्बर व जनवरी माह में तापमान कम होने के कारण हॉट मिक्स प्लान्ट के कार्य नहीं कराये जा सकते। तापमान अधिक होने पर हॉट मिक्स प्लान्ट के कार्य कराये जायेंगे। वर्तमान समय में 04 नालों के निर्माण कार्य प्रगति पर है।

अधिसासी अभियन्ता
गाजियाबाद नगर निगम

प्रतिलिपि :-

1. नगर आयुक्त महोदय को सादर अवलोकनार्थ प्रेषित।
2. मुख्य अभियन्ता महोदय को सादर सूचनार्थ।

अधिसासी अभियन्ता
गाजियाबाद नगर निगम

VSB
(T.C.)

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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 447 OF 2018**

IN THE MATTER OF:

Kaushambi Apartments Residents Welfare
Association (KARWA)

.....APPLICANTS

VERSUS

District Magistrate Ghaziabad & Anr.

.....RESPONDENTS

PROOF OF SERVICE

SL NO.	NAME OF ADVOCATES	SIGNATURE
1.	Mr. Ajay Kohli Advocate for Applicant	<i>by Speed Post</i>
3.	Mrs. Priyanka Swami Advocate for State of U.P.	<i>Priyanka Swami 29/1/2020</i>

V Singh

Dated : 29.01.2020

(VISHWAJIT SINGH)
Advocate for Respondent no.2
(Ghaziabad Nagar Nigam)
112 New Lawyers Chamber
Supreme Court of India - 110001
Mo. 9310118870-71-72
Email ID: singh.vishwajit@gmail.com



ED269956564IN IVR:6968269956564
SP NET EXTENSION COUNTER <110001>
Counter No:1,29/01/2020,14:51
To: KOHLI & SOBIT,-
PIN:110024, Lajpat Nagar South Delhi SO
From: VISHWAJIT SINGH,-
Wt:145gms
Amt:29.50 (Cash) Tax:4.50