

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 155 OF 2024**

IN THE MATTER OF:

MAHAVIR SINGH

.....APPLICANT

VERSUS

GOVT. OF NCT OF DELHI & ORS.

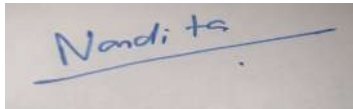
.....RESPONDENTS

INDEX

SI No.	Particulars	Pages
01.	INDEX	1-2
02.	SUBMISSIONS ON BEHALF OF THE APPLICANT	3-12
03.	ANNEXURE A1/1 True copy of the order dated 05.09.2024	13
04.	ANNEXURE A1/2 True copy of the photographs depicting plastic and electric waste alongwith latitude and longitude	14-35
05.	ANNEXURE A1/3 True copy of the judgement dated 07.05.2004	36-72
06.	ANNEXURE A1/4 True copy of the order dated 03.12.2018	73-81
07.	ANNEXURE A1/5 True copy of the order dated 24.01.2019	82-96
08.	ANNEXURE A1/6 True copy of the order dated 10.12.2020	97-117
09.	ANNEXURE A1/7	118

	True copy of the letter dated 21.07.2021 addressed to SDM Nangloi	
10.	ANNEXURE A1/8 True copy of the letter dated 26.08.2021 addressed to Chief Secretary, Delhi Secretariat	119
11.	ANNEXURE A1/9 True copy of the letter dated 16.06.2022 addressed to Lieutenant Governor of Delhi	120
12.	ANNEXURE A1/10 True copy of the letter dated 16.06.2023 addressed to Chairman of the Environment Pollution (Prevention and Control) Authority	121
13.	ANNEXURE A1/11 True copy of the letter dated 16.08.2024 addressed to Commissioner, Municipal Corporation of Delhi	122-123

Drawn and Filed By



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New Delhi
17/12/2024

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 155 OF 2024**

IN THE MATTER OF:

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SUBMISSIONS ON BEHALF OF THE APPLICANT

MOST RESPECTFULLY SHOWETH:

1. That vide its order dated 05.09.2024 this Hon'ble Tribunal allowed the applicant to place on record additional documents/material in support of the plea that has been taken in the present Original Application.

True copy of the order dated 05.09.2024 is annexed and marked hereto as Annexure A1/1

2. That the present Original Application has been filed before this Hon'ble Tribunal, highlighting illegal operation of plastic manufacturing units, unauthorized dumping of plastic waste, burning of wastes and other grossly polluting industries functioning unlawfully in non-conforming areas such as Nangloi, Tikri, Ranhola,

and Kamruddin Nagar etc in Delhi. These units are engaged in the illegal burning of plastic, rubber materials, and other waste, causing severe environmental degradation. For the sake of convenience of this Honble Tribunal, applicant wishes to mention the following places where illegal burning and dumping of plastic and electric waste is continuously and repeatedly happening:

- a. Nerula Road, Ranohola Extension, New Delhi-110041
- b. Jharoda Kalan, New Delhi – 110072
- c. Bakkarwala Road, Mundka, New Delhi – 110041
- d. Tikri Kalan, New Delhi

True copy of the photographs depicting plastic and electric waste alongwith latitude and longitude are annexed and marked herewith as Annexure A1/2.

3. That the Hon'ble Supreme Court in M.C. Mehta vs. Union of India & Ors: (2004) 6 SCC 588, paragraph 54-57, directed shifting/closing of industrial activities falling under category 'F' of the Master Plan of Delhi, 2001.

True copy of the judgement dated 07.05.2004 is annexed and marked hereto as Annexure A1/3.

4. That aggrieved by the inaction in that direction, the applicant filed a writ petition in the Hon'ble Delhi High Court regarding the burning of plastic and other unlawful activities by industrial units operating in non-conforming areas such as Mundka, Nangloi, and adjoining regions in Outer Delhi.

5. That the writ petition filed before the Hon'ble Delhi High Court was subsequently transferred to this Hon'ble Tribunal, leading to the registration of Original Application (O.A. No. 57 of 2013). Upon transfer, this Hon'ble Tribunal issued directions for the scientific management of plastic waste and instructed the Chief Secretary of Delhi to hold a joint meeting with the concerned authorities. Referring to the judgment of the Hon'ble Supreme Court in *M.C. Mehta (supra)*, this Hon'ble Tribunal also directed the closure or relocation of illegal industrial activities in non-conforming areas. Later, O.A. No. 1027/2018 was registered separately after O.A. No. 57(THC)/2013 was technically disposed of but retained for report consideration.

6. That vide its order dated 03.12.2018, this Hon'ble Tribunal observed that despite the passage of over fourteen years since the Hon'ble Supreme Court's directions and more than four and a half years

since this Tribunal's orders, the unregulated handling of plastic remained unabated as of the review conducted on 20.07.2018. The Tribunal noted that its earlier orders dated 12.12.2013, 24.12.2014, 24.02.2015, 06.12.2016, 10.01.2017, and 10.10.2017 were not effectively implemented due to the lack of commitment and sincerity from the authorities, resulting in the continued illegal burning of plastic. Taking into account the facts and circumstances on record, this Hon'ble Tribunal, by its order dated 03.12.2018, directed the Delhi Government to deposit Rs. 25 Crores as environmental compensation for the damage caused and to furnish a performance guarantee of Rs. 25 Crores to ensure compliance with its directions within three months.

True copy of the order dated 03.12.2018 is annexed and marked herewith as Annexure A1/4.

7. That this Hon'ble Tribunal directed the Chief Secretary of Delhi, as the head of the Committee responsible for enforcing the Hon'ble Supreme Court's judgment, to take concrete actions and appear in person. The Chief Secretary appeared on 05.08.2019 and submitted an action plan outlining the schedule for planned measures. Subsequently, on 19.11.2019, the Chief Secretary

appeared again. However, considering the prolonged inadequacy of compliance, the Tribunal, vide its order dated 24.01.2019 in O.A. No. 601/2018, constituted an Oversight Committee (OC) to formulate a time-bound action plan to address the issue effectively. **True copy of the order dated 24.01.2019 is annexed and marked herewith as Annexure A1/5.**

8. That vide its order dated 10.12.2020, this Hon'ble Tribunal, after monitoring the matter for over seven years, deemed it unnecessary to keep the proceedings pending indefinitely. It directed the statutory authorities to continue enforcing environmental norms as per law. Disposing of the Oversight Committee's final report dated 20.03.2020, the Tribunal stated that further monitoring would be undertaken by the Chief Secretary, Delhi, in line with the Hon'ble Supreme Court's judgment in *M.C. Mehta (supra)*. The Tribunal closed the proceedings, emphasizing the need for continuous vigilance against pollution, particularly the burning of plastic and other waste, to safeguard the environment and public health. It also directed that compensation recovered must be utilized appropriately with CPCB approval. Aggrieved parties retain the liberty to seek remedies under the law in case of future violations.

True copy of the order dated 10.12.2020 is annexed and marked herewith as Annexure A1/6.

9. The Applicants respectfully submit that, despite the extensive proceedings before this Hon'ble Tribunal, the burning of plastic and the consequent environmental pollution persist unabated to date.

10. The Applicant also submitted complaints to various authorities, including a letter to the SDM, Nangloi, on 21.07.2021, highlighting the issue. However, these efforts have been in vain, compelling the Applicant to approach this Hon'ble Tribunal for redressal.

True copy of the letter dated 21.07.2021 addressed to SDM Nangloi is annexed and marked herewith as Annexure A1/7.

11. The Applicant also submitted a letter dated 26.08.2021 to the Chief Secretary, Delhi Secretariat, bringing to their attention that factories previously closed due to pollution have resumed operations. It was further highlighted that red-category factories are being improperly granted licenses under the white-category classification, resulting in unchecked and unregulated pollution.

True copy of the letter dated 26.08.2021 addressed to Chief Secretary, Delhi Secretariat is annexed and marked herewith as Annexure A1/8.

12. The Applicant also submitted a letter to the Lieutenant Governor of Delhi on 16.06.2022, reiterating concerns regarding the persistent pollution at the Nangloi-Tikri border.

True copy of the letter dated 16.06.2022 addressed to Lieutenant Governor of Delhi is annexed and marked herewith as Annexure A1/9.

13. The Applicant, on 16.06.2023, also submitted a letter to the Chairman of the Environment Pollution (Prevention and Control) Authority, highlighting the ongoing operation of polluting plastic factories in areas such as Naresh Park, Nangloi, Mundka, Ranhola, Ranikheda, Kanjhawala, Tikri, Ghewra, Hiran Kudna, Kair, Jhadoda, Nilothi, Kamruddin Nagar, Tilangpur Kotla, and Bakkarwala along the Nangloi-Tikri border.

True copy of the letter dated 16.06.2023 addressed to Chairman of the Environment Pollution (Prevention and Control) Authority is annexed and marked herewith as Annexure A1/10.

14. That the Applicant also submitted a letter to the Commissioner, Municipal Corporation of Delhi, on 16.08.2024, expressing concerns regarding the unchecked burning of plastic in the area, which is causing severe air pollution. Additionally, it was highlighted that godowns are being constructed on agricultural land, exacerbating the environmental issues.

True copy of the letter dated 16.08.2024 addressed to Commissioner, Municipal Corporation of Delhi is annexed and marked herewith as Annexure A1/11.

15. The villagers of Neelwal are grappling with significant challenges due to worsening air pollution, which is disrupting their health, environment, and livelihoods. The air in the village is filled with pollutants from multiple sources, including emissions from nearby factories and the open illegal burning of plastic and e-waste. This toxic atmosphere has led to a rise in respiratory illnesses such as asthma, bronchitis, and chronic cough, with children and the elderly being the worst affected. Many villagers also report eye irritation, skin allergies, and fatigue, which are direct consequences of prolonged exposure to polluted air. Additionally, the agricultural community is facing declining crop yields as harmful air pollutants weaken plants and reduce soil fertility.

16. That by way of present additional affidavit and in light of the above, applicant requests this Hon'ble Tribunal to direct the Respondents to take immediate and effective steps to prevent the burning of plastic and other waste in the identified areas, along the Nangloi-Tikri border.

17. That the applicant also requests this Hon'ble Tribunal to mandate strict enforcement of the Hon'ble Supreme Court's judgment in *M.C. Mehta v. Union of India* and the prior orders of this Hon'ble Tribunal concerning the closure or relocation of polluting industries operating in non-conforming areas.

18. The applicant further prays before this Hon'ble Tribunal to issue directions to respondents to create a mechanism to prevent the illegal shifting of factories and their garbage from one state to another, which exacerbates environmental degradation and undermines sustainable waste management practices.

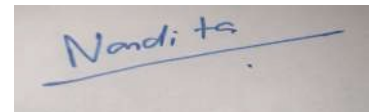
19. The applicant also respectfully seeks the imposition of strict penalties and accountability measures against officials and authorities who are found negligent in enforcing environmental laws,

regulations, and prior orders issued by this Hon'ble Tribunal. Such measures are essential to ensure compliance, deter misconduct, and safeguard the environment effectively.

20. That the balance of the convenience is in favour of the applicant and the ends of justice shall suffer if the relief as prayed is not granted.

21. That applicant has not approached any other court or tribunal seeking similar relief as prayed before this Hon'ble Court.

Drawn by

A rectangular box containing a handwritten signature in blue ink that reads "Nandita".

Nandita Dhar
Advocate
For
Applicant

New Delhi
17/12/2024

Item No. 03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 155/2024

Mahavir Singh

Applicant

Versus

Govt. of N.C.T. of Delhi & Ors.

Respondent(s)

Date of hearing: 05.09.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Ms. Nandita Bansal, Adv. (Through VC)

ORDER

1. Learned counsel for the applicant seeks an opportunity to place on record additional documents/material in support of the plea that has been taken in this OA. Prayer is allowed.

2. List on 19.12.2024

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

September 05, 2024
Original Application No. 155/2024
AS..



Sep 27, 2024 06:42:56
Tikri Kalan
New Delhi
Delhi Division
Delhi



Dec 1, 2024 16:33:55
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Jun 13, 2024 18:54:59
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Delhi Division
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Delhi Division
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GPS Map Camera

New Delhi, DL, India
Nerula Road, Ranhola Extension, New
Delhi, 110041, DL, India
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New Delhi, DL, India
Jharoda Kalan, New Delhi, 110072,
DL, India
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GPS Map Camera



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110041, DL, India**

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Jharoda Kalan, New Delhi, 110072,
DL, India

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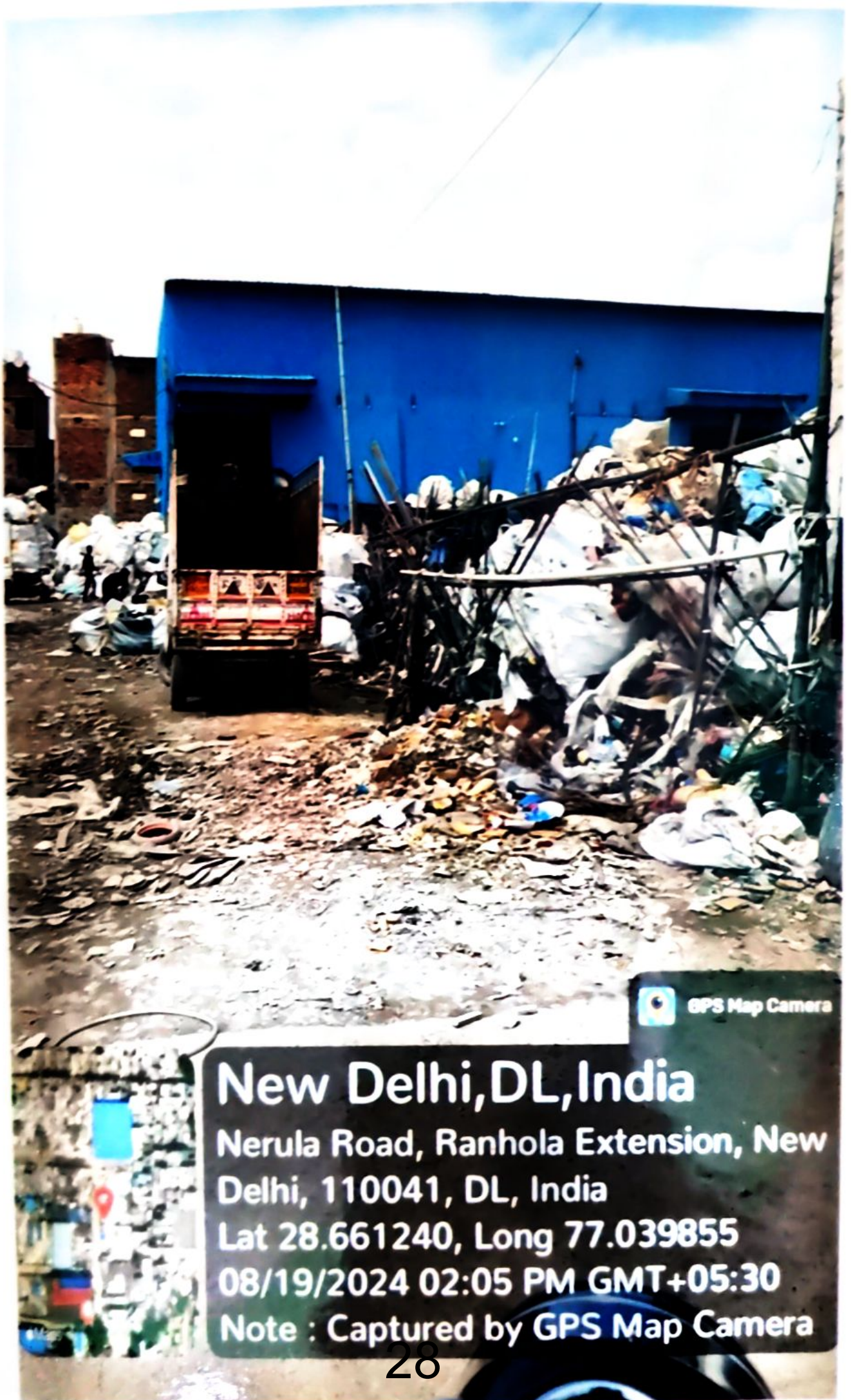
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Delhi, 110041, DL, India**

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New Delhi, DL, India

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New Delhi, DL, India

**Jharoda Kalan, New Delhi, 110072,
DL, India**

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New Delhi, DL, India


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110041, DL, India**

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New Delhi, DL, India

Bakkarwala Road, Mundka, New Delhi,
110041, DL, India

Lat 28.666820, Long 77.039024

08/19/2024 01:34 PM GMT+05:30

Note : Captured by **GPS Map Camera**

588

SUPREME COURT CASES

(2004) 6 SCC

The High Court exercising writ jurisdiction does not sit in judgment over the decision of the State Government like an appellate authority. Ordinarily, the High Court exercising writ jurisdiction cannot enter into reappreciation of evidence and reverse the findings arrived at by the State Government unless they be perverse or be such as no reasonable man acting reasonably could have arrived at. If the High Court found that the decision arrived at by the State Government was flawed in any way then the High Court should have, after laying down the necessary principles or guidelines or issuing directions, directed the State Government to reconsider the case of the respondent. In no case, the High Court could have in exercise of its writ jurisdiction relaxed the need for full satisfaction of the necessary requirements on the fulfilment of which alone the respondent's entitlement to the release of freedom fighters' pension depended.

8. The approach of the High Court cannot be countenanced.

9. The appeal is allowed. The judgment of the High Court is set aside and the decision of the State Government is restored. The respondent is still at liberty to make representation afresh to the State Government for reconsideration of his case and/or for relaxing the requirements of the Scheme. But on that we express no opinion of our own.

10. The appeal stands disposed of in the aforesaid terms but without any order as to the costs.

(2004) 6 Supreme Court Cases 588

(BEFORE Y.K. SABHARWAL AND B.N. AGRAWAL, JJ.)

M.C. MEHTA . . . Petitioner; e

Versus

UNION OF INDIA AND OTHERS . . . Respondents.

IA No. 22 in WP (C) No. 4677 of 1985[†] with IAs Nos. 1206, 1204, 1205, 1224, 1322, WP (C) No. 98 of 2000, IAs Nos. 1367, 1816 and 1527, decided on May 7, 2004 f

A. Constitution of India — Art. 21 — Town planning — Regularisation of illegal industrial activity — In situ regularisation — Permissibility of — Considerations involved and questions that authorities must address — Held, regularisation cannot be done if it results in violation of the right to life enshrined in Art. 21 — Question of regularisation to be considered not only from angle of those who had set up industrial units in violation of the master plan, and those employed therein, but also others in the area who were using their premises as allowed by law; and the effect on the entire area, particularly with respect to the infrastructure available — Moreover, the larger question of what sort of town (Delhi in this case) was intended to be left for the present and future generations by the regularisation contemplated, had to be addressed — The land could not be permitted to be used contrary to the stipulated user except by amendment of the master h

[†] Under Article 32 of the Constitution of India

a plan, after due observance of the provisions of the 1957 Act and Rules thereunder — Directions issued for closure and relocation of industrial units in residential/non-conforming areas in Delhi which had commenced operations on or after 1-8-1990 — Delhi Development Act, 1957 (61 of 1957) — S. 14 — Delhi Municipal Corporation Act, 1957 (66 of 1957) — Environment Protection and Pollution Control — Ecology — Town Planning — Ecology

b B. Environment Protection and Pollution Control — Generally — Industries in residential areas — Industrial activity in residential/non-conforming areas of Delhi, commencing on or after 1-8-1990 — Categories ‘B’ to ‘F’ — Closure of, ordered — Industrial activity under Category ‘A’ not permissible in residential/non-conforming areas — Closure of, ordered — Central Government further directed to expeditiously decide the issue of expansion of permissible ‘A’-category industries as sought by the State Government — [See specific directions in respect thereof and ancillary thereto in paras 69.1 to 69. 9] — Industrial activity in Lal Dora/rural areas

c — Held, all industrial activity other than that permissible under Groups ‘A’ and ‘A-1’ of Category ‘A’, was impermissible

This case about unauthorised industrial activity in Delhi in residential areas had a protracted background. The present examination was confined to the issue of industrial activity in residential/non-conforming areas to decide what directions could be issued to put an end to such illegal activity. As a result of orders passed from time to time, hazardous and noxious industries and heavy and large industries (‘H’ category) had been shifted out of Delhi. Some of the extensive industries (‘F’ category) had also been shifted out of Delhi. As per the State Government, all non-polluting ‘F’-category industries had not yet been shifted though. The question was what should be done about continued unauthorised use contrary to the master plan and zonal plan by the remaining ‘F’ category and ‘B’ to ‘E’ categories (light and service industries) and household industries (‘A’-category industries). These industries were continuing in residential/non-conforming areas. It was not in dispute that most of the continuing industrial activity under consideration was in contravention of law, except in the case of only a few household industries.

d

e

f In the order dated 19-4-1996, the Supreme Court had observed that the provisions of the master plan had to be complied with and in case any non-residential activity was permitted in residential areas, that had to be stopped. A High-Powered Committee was constituted to examine which type of industries could be permitted in residential areas. The State Government was directed to issue public notices asking the industries which were operating in different residential areas of Delhi to approach the Committee for necessary permission. It was also made clear that industries which did not obtain permission would have to stop functioning in residential areas w.e.f. 1-1-1997. Orders were also passed directing the Delhi Government to issue public notices in newspapers requiring industries in residential/non-conforming areas to apply for allotment of plots in industrial estates and also give undertakings that on such allotment they would shift from the existing place. The Supreme Court thinking that the Delhi Government was now seriously processing the project of relocating industries operating in residential/non-conforming areas of Delhi, left the field open for the Government to act on its own and relocate industry in terms of the order dated 18-12-1996. The Government was, however, directed to file progress reports in the Supreme Court every three months.

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590

SUPREME COURT CASES

(2004) 6 SCC

On 8-9-1999, it was noticed that the progress report filed indicated that though some steps had been taken the same had not been taken in right earnest, as a result of which industries were continuing to operate in the residential zone. The Supreme Court directed that if industries in residential areas could not be shifted and relocated for any reason whatsoever by 31-12-1999, then those industries would be closed down. The Government was directed to give due publicity in newspapers so as to make the industries aware. a

On 10-12-1999, the State Government came up with an application (IA No. 1206), inter alia, seeking modification of the order dated 8-9-1999 and for extension of time up to March 2004 for the shifting of industries which had been found eligible for allotment of alternate industrial accommodation under a “Relocation Scheme” subject to their functioning in conformity with the pollution norms under the existing laws. As per what the Delhi Government itself said in this application, a survey conducted by the Delhi Pollution Control Committee in the year 1995-96 showed that about 1,26,000 industrial units were functioning in Delhi, out of which approximately 1,01,000 were in residential/non-conforming areas and only about 25,000 were in approved industrial areas. The application also stated that in these 1,01,000 illegally operating industrial units, about 7,00,000 workers were employed and closure of these industries would result in hardship to approximately 7,00,000 families. It was further stated that out of 52,000 applications received under the Relocation Scheme in December 1996, approximately 23,000 had been found to be eligible. b

The prayer in the application also was that the industrial units functioning in residential areas, where concentration of industry was 70%, should be permitted to continue to operate from their existing location. The applicant thus sought *in situ* regularisation. According to the Government, about 15,000 industrial units would fall in this category and another approximately 6000 industrial units would fall in the category of household industries (‘A’ category). c

Allowing the writ petition, and dismissing the said application (IA No. 1206), the Supreme Court d

Held :

Regularisation cannot be done if it results in violation of the right to life enshrined in Article 21 of the Constitution. The question will have to be considered not only from the angle of those who have set up industrial units in violation of the master plan but also others who are lawful residents since regularisation has effect on the entire area, particularly with respect to the infrastructure available. (Para 16) e

The question cannot be examined only from the angle of the industry or even those who are employed in the said industries. It is imperative for the State Government, the Delhi Development Authority as also the Government to address itself to the larger question of not only legalising blatant illegalities but as to what Delhi is intended to be left for the children and future generations by permitting industrialisation in residential areas. The facts demonstrate that the State Government and the Delhi Development Authority have been wholly remiss in all their functions, duties and obligations. In any case since as at present there is no regularisation, the industrial activities in residential/non-conforming zones are wholly illegal and have to be stopped. (Para 19) f

The land cannot be permitted to be used contrary to the stipulated user except by amendment of the master plan after due observance of the provisions g

M.C. MEHTA v. UNION OF INDIA

591

a of the Act and the Rules. Inaction by the Government amounts to indirectly permitting unauthorised use which amounts to the amendment of the master plan without following due procedure. The proposal of *in situ* regularisation has also been opposed by the National Region Board which has pointed out that the very purpose of the Act would be defeated by such regularisation. It would lead to further congestion of Delhi instead of decongestion. (Paras 46 and 52)

M.C. Mehta v. Union of India, (1996) 4 SCC 351; *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 : 1987 SCC (L&S) 37; *Rylands v. Fletcher*, (1868) 3 HL 330 : (1861-73) All ER Rep 1, referred to

b It is evident that the industry belonging to 'F' category in residential/non-conforming areas could not come up after 1-8-1990 since even the existing 'F'-category industry in non-conforming areas was required to be shifted to the permissible zone within a maximum period of three years after allotment of plots. The same is the position in respect of light and service industry belonging to 'B' to 'E' categories except that depending upon the number of workers employed, the master plan stipulates different time schedules for these industries to shift. Despite the time span mentioned in the 1990 master plan having expired and various opportunities having been given during 1995, 1996 and 1997 and notices issued, and 13 years having passed, non-conforming use by industry has continued. Such non-conforming use must stop at least by those who commenced it from and after 1-8-1990. The State Government sought expansion of 'A'-category industries. The Government of India has approved only 6 out of the list of 41 industries. In case the remaining are not approved, impermissible 'A'-category industrial units shall also have to stop functioning. There is no justification for continuance of illegal and unauthorised industrial activity in residential/non-conforming areas which commenced after 1-8-1990. It would also apply to industries in Categories 'B' to 'F'. (Paras 54 to 57)

c In respect of industrial activity in rural area/Lal Dora, the Governments and various authorities did not dispute that except industry falling in Groups 'A' and 'A-1' of Category 'A', no other industrial activity was permissible. (Para 64)

The result of the aforesaid discussion is that except household industry, all other industrial units which have come up in residential/non-conforming areas in Delhi after 1-8-1990 have to stop functioning. (Para 68)

d Directions are being issued in respect of closure and relocation of industrial units that had come up in residential/non-conforming areas in Delhi on or after 1-8-1990, and in respect of matters ancillary thereto [paras 69.1 to 69. 9].

e **C. Constitution of India — Arts. 21 and 48-A — Ecological balance — Maintenance of — Right to hygienic, clean and safe environment — Duty of State in this regard — Held, right to have a living atmosphere congenial to human existence is a part of right to life — The State has a duty in this behalf and to shed its extravagant unbridled sovereign power and to forge its policy to maintain the ecological balance and a hygienic environment**

f **D. Constitution of India — Arts. 21 and 48-A — Ecological balance — Maintenance of — Right to hygienic, clean and safe environment — Town planning/Land development schemes — Directions that may be given by the Government in regard to — Diversion of land allotted under approved scheme — “Public interest” in respect thereof — Understanding and interpretation of — Held, the power to give directions should be used only to effectuate and further goals of the approved scheme, zonal plans, etc. and**

592

SUPREME COURT CASES

(2004) 6 SCC

the land vested under the scheme or reserved under the plan should not be directed to be used for any other public purposes within the area envisaged thereunder — Words and phrases — “Public interest” — Interpretation of — Town Planning — Environment Protection and Pollution Control a

E. Constitution of India — Arts. 32, 136 and 144 — Compliance with orders of Supreme Court — Monitoring Committee — Appointment of and affixation of responsibility on, for non-compliance, if any — Illegal industrial activity in residential/non-conforming areas of Delhi — Closure of — Due to the betrayal of trust reposed by Supreme Court in authorities concerned during earlier stages of proceedings, a Monitoring Committee of high-ranking officials appointed — Committee so appointed to be responsible for stoppage of said industrial activity within the time schedule specified b

Right to have a living atmosphere congenial to human existence is a part of the right to life. The State has a duty in that behalf and to shed its extravagant unbridled sovereign power and to forge its policy to maintain ecological balance and a hygienic environment. Though the Government has power to give directions, that power should be used only to effectuate and further goals of the approved scheme, zonal plans, etc.; and the land vested under the scheme or reserved under the plan should not be directed to be used for any other public purposes within the area envisaged thereunder. Public interest has to be understood and interpreted in the light of the entire scheme, purpose and object of the enactment. The hazard to health and environment of not only the persons residing in the illegal colonisation area but of the entire town as well as the provisions and scheme of the Act concerned have to be taken into consideration. c

(Paras 40 and 42)

Virender Gaur v. State of Haryana, (1995) 2 SCC 577; *Administrator, Nagar Palika v. Bharat*, (2001) 9 SCC 232; *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*, (1999) 6 SCC 464; *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*, (1999) 6 SCC 532 (connected order); *V.M. Kurian v. State of Kerala*, (2001) 4 SCC 215, *relied on* d

Unfortunately, the governmental authorities have not lived up to the confidence that was reposed in them when the Supreme Court had stepped aside and left the matter to the Government to relocate industry in terms of its order dated 18-12-1996. On the other hand, in the year 2002 while these matters were pending, commercial use of industrial area was sought to be regularised by DDA on payment of some amounts. The action not only was utterly illegal but also shows total non-application of mind. Thus, going by the past experience, it would also be necessary to not only monitor but also to fix responsibility so that illegal activity does not continue any further and stops within the time schedule for its cessation fixed in this order. e

(Para 68)

A Monitoring Committee is therefore appointed. This Committee would be responsible for stoppage of illegal industrial activity and to ensure compliance with the directions contained in the judgment. [See fully paras 69.8 and 69.9.] f

(Para 69)

F. Constitution of India — Arts. 21, 48-A and 32 — Ecological balance — Maintenance of — Right to hygienic, clean and safe environment — Inaction/failure on part of authorities to ensure compliance with environmental laws/norms — Role of judiciary — Environment Protection and Pollution Control — Judicial intervention g

h

M.C. MEHTA v. UNION OF INDIA

593

G. Constitution of India — Arts. 32, 136, 226 and 50 — Judicial discretion — Exercise of — Held, cannot be guided by expediency, but wherever exercised it has to be in accordance with law and set legal principles — A discretion which encourages illegality or perpetuates an illegality cannot be exercised — Judiciary — Generally

H. Administrative Law — Judicial review — Grounds for — Reiterated

Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judicial discretion wherever it is required to be exercised has to be in accordance with law and set legal principles. Judicial review is permissible if the impugned action is against law or in violation of the prescribed procedure or is unreasonable, irrational or mala fide. A discretion which encourages illegality or perpetuates an illegality cannot be exercised. (Para 41)

If the Supreme Court finds that the authorities had not taken action required of them by law and that their inaction is jeopardising the right to life of the citizens of this country or any section thereof, it is the duty of the Supreme Court to intervene. If it is found that the respondents are flouting the provisions of law and the directions and orders issued by the lawful authorities, the Supreme Court can certainly make appropriate directions to ensure compliance with law and lawful directions made thereunder. If an industry is established without obtaining the requisite permission and clearances and if the industry is continued to be run in blatant disregard of law to the detriment of life and liberty of the citizens living in the vicinity, the Supreme Court has the power to intervene and protect the fundamental right to life and liberty of the citizens of this country. (Para 48)

Indian Council for Enviro Legal Action v. Union of India, (1996) 3 SCC 212, followed

I. Environment Protection and Pollution Control — Generally — Legitimate expectation — Industrial activity in residential/non-conforming areas — Inaction on part of authorities to prevent illegal activity and efflux of time — If can confer legitimacy on such activity — Held, an illegality would not become a legality on inaction or connivance of government authorities — The lawbreakers, namely, the industries, cannot be absolved of the illegalities only on ground of inaction by the authorities — Lawmakers repose confidence in the authorities that they will ensure implementation of the laws made by them — If the authorities breach that confidence and act in dereliction of their duties, then the plea that the observance of law will now have an adverse effect on the industries concerned or the workers, cannot be allowed — Administrative Law — Legitimate expectation — If can arise on basis of change of position (though illegal ab initio) due to inaction on part of authorities to ensure/enforce compliance with law — Jurisprudence — Illegality — Nature and scope of (Paras 34 and 51)

J. Town Planning — Town Planning Scheme — Constitutional responsibilities and powers of municipalities in respect of — Held, municipalities have constitutional responsibilities in respect of matters enumerated in Sch. XII of the Constitution, and powers in respect thereof under Part IX-A, and especially Art. 243-W — Constitution of India — Pt. IX-A, Art. 243-W and Sch. XII — Municipalities — Town Planning Scheme

K. Municipalities — Delhi Municipal Corporation Act, 1957 (66 of 1957) — Ss. 345, 416(1), 417(1), 461 and Sch. XI, Pt. I and Sch. XII —

594

SUPREME COURT CASES

(2004) 6 SCC

Constitutional responsibilities and powers of MCD in respect of town planning — Held, MCD has responsibility in respect of matters enumerated in Sch. XII of the Constitution, and powers in respect thereof under Part IX-A, and especially Art. 243-W and the listed provisions of the 1957 Act — Therefore, it did not lie in the mouth of MCD to plead helplessness in carrying out its responsibilities and obligations under the 1957 Act — Constitution of India — Pt. IX-A, Art. 243-W and Sch. XII

L. Town Planning — Delhi Development Act, 1957 (61 of 1957) — Ss. 7, 8, 11-A, 14, 29(2), 31-A and 41 — Powers and responsibilities of DDA, Government of Delhi and Central Government under — Continuing illegal industrial activity in residential/non-conforming areas of Delhi — Responsibility therefor — Held, the illegal industrialisation in residential/non-conforming areas commenced and continued while DDA, the Governments and their agencies had been totally negligent in discharge of their functions and obligations — Detailed litany of instances of impropriety, negligence, inaction and changing of stands before the Supreme Court on part of all tiers of Government, local, State and Central, set out, deprecated and bemoaned

Municipalities have constitutional responsibilities of town planning under Part IX-A, and especially under Article 243-W of the Constitution. (Para 37)

The Municipal Corporation has the responsibility in respect of matters enumerated in the Twelfth Schedule of the Constitution and powers in respect thereof under Article 243-W and Sections 345, 416(1), 417(1) and 461 and Part I of Schedule XI and Schedule XII of the Delhi Municipal Corporation Act, 1957. Therefore it does not lie in the mouth of the Corporation to plead helplessness in carrying out responsibilities and obligations under the DMC Act. (Para 38)

The Delhi Development Authority has to bear in mind that it has to perform its function in accord with the provisions of the Delhi Development Act, 1957 which was enacted to provide for the development of Delhi according to the plan and for matters ancillary thereto keeping in mind Sections 7, 8, 11-A, 14, 29(2) and 31-A thereof. (Para 20)

The growth of illegal manufacturing activity in residential areas has been without any check and hindrance from the authorities. The manner in which such large-scale violations have commenced and continue leaves no manner of doubt that it was not possible without the connivance of those who are required to ensure compliance with law and reasons are obvious. Such activities result in putting on extra load on the infrastructure. The entire planning has gone totally haywire. The law-abiders are sufferers. All this has happened at the cost of health and decent living of the residents of the city violating their constitutional rights enshrined under Article 21 of the Constitution. The illegal industrialisation in residential/non-conforming areas commenced and has continued and the Authority, the Government and its agencies have been totally negligent in discharge of their functions and obligations under the provisions of the DD Act, 1957. No equity has been found in favour of the violators of the law.

(Paras 21, 51 and 39)

Neither on behalf of the Government of India nor on behalf of the Delhi Government nor on behalf of any statutory authority could it be disputed that the unauthorised and illegal industrial activity has commenced and continued in Delhi in blatant breach of the provisions of the master plan and no action has

M.C. MEHTA v. UNION OF INDIA

595

a been taken by any authority. The responsibility to take action was sought to be shifted; each blaming the other. The Delhi Government sought to avoid its obligation on the ground that it was not the function of the State Government to implement the master plan and it had no powers to enforce the same. The Government of India avoided its responsibility on the ground that the Central Government was not the implementing agency though in such case one has only to refer to Section 41 of the DD Act, 1957 which empowers the Central Government to issue directions to DDA for the efficient administration of the DD Act, 1957. Similarly, the other statutory authorities have also avoided to shoulder the responsibility for inaction for the blatant breach of the legal provisions. The respondents have been taking a convenient stand from time to time without any regard for statutory provisions and have at least turned their face to the other side knowing that blatant breach is being committed, even if it is assumed that there was no connivance with the industry for extraneous considerations.

(Paras 59, 60, 65 and 19)

c **M. Environment Protection and Pollution Control — Generally — Unauthorised use of leased land — Regularisation of — Permissibility — Held, following *Faqir Chand case*, (1973) 1 SCC 572, wrongful user of leased premises could not be permitted, even though a penalty therefor was being paid — Further held, it was even open to the authorities to cancel the lease on account of misuser**

d Observations made in *Arjun Dev Arora case*, (1986) 4 SCC 660 to the effect that as long as the penalty for wrongful user of leased premises is continued to be paid, the deviation of user could be permitted, do not appear to be in consonance with the decision of the larger Bench in *Faqir Chand case*, (1973) 1 SCC 572. In *Faqir Chand case* anxiety of the legislature to see that the lands were used for the very purpose for which they were leased by enacting the relevant provision, was noticed. It was also observed that the authority may not be prepared to accept compensation but might insist upon cessation of the unauthorised use. Since most of the land used for industrial purpose in residential/non-conforming areas is leased land, it was even open to the authorities to cancel the lease on account of the misuser. (Paras 43 and 44)

Faqir Chand v. Ram Rattan Bhanot, (1973) 1 SCC 572; *K. Madan (Dr.) v. Krishnawati*, (1996) 6 SCC 707, followed

Punjab National Bank v. Arjun Dev Arora, (1986) 4 SCC 660, impliedly overruled

f **N. Town Planning — Ecological balance — Maintenance of — Illegal industrial activity in residential/non-conforming areas of Delhi — Shifting of — Alternative plots for those industrial units ordered to be closed down — Allotment and availability of — If could be a factor in preventing closure of such illegal industrial units — Material on record showed that NCR Planning Board under the listed sections of the 1985 Act had been taking initiatives to encourage shifting of industries to NCR — However, held, there was no obligation to provide alternative plots to those who had illegally commenced industrial activity — The second master plan stipulates to provide alternate plots only to those who had set up industrial units up to 31-12-1989 — It was a matter for the Government to decide if it wanted to provide alternative industrial plots to those who illegally commenced that activity, but that could not further delay the closure of continuing illegal industrial activity — National Capital Region Planning Board Act, 1985 — Ss. 2(j), 3(1), 10 and 27**

596

SUPREME COURT CASES

(2004) 6 SCC

The material on record shows that the NCR Planning Board in light of Sections 2(j), 3(1), 10 and 27 of the NCR Planning Board Act, 1985 has been taking initiatives to encourage the shifting of industries to NCR. But no significant interest was shown by industry. There is no obligation to provide alternative plots to those who illegally commenced industrial activity. The second master plan stipulates to provide alternate plots only to those who had set up industrial units up to 31-12-1989. It is a matter for the Government to decide if it wants to provide alternative industrial plots to those who illegally commenced that activity but that cannot further delay the closing of continuing illegal industrial activity. Lack of action and initiative by the authorities is the main reason for industry merrily continuing illegal activity. There is total lack of enforcement of law by the authorities concerned. (Paras 32, 27, 68 and 33)

The regularisation sought for would also result in making the concept of NCR non-functional and inoperative. From the facts noticed it is evident that a casual approach was adopted in recommending *in situ* regularisation.

(Paras 26 and 35)

D-P-M/ATZ/30115/C

Advocates who appeared in this case :

Mukul Rohatgi and Raju Ramachandran, Additional Solicitors General, Kailash Vasdev, Ranjit Kumar (Amicus Curiae) and P.C. Jain, Senior Advocates (M.C. Mehta, K.L. Mehta, Rakesh K. Khanna, Ms Rashmi Khanna, Reetesh Singh, Shashank Shekhar, Surya Kant, Mohd. Arif, M.A. Chinnasamy, K.K. Rohatgi, Praveen Jain, Gopal Jain, Ms Bina Gupta, Ms Nina Gupta, Ms Vanita Bhargava, Kirpal Singh, Debasis Misra, S. Sukumaran, Ms Divya Nair, K. Rajeev, Manoj Swarup, Anubhav Kumar, Ms Manik Karanjawala, Sushil Kr. Jain, Naresh Khanna, P.N. Puri, Harpreet Singh, P. Venugopal, P.S. Sudheer, Vijay Kumar, Atul Sharma, B.K. Sharma, Vishwajit Singh, Vijay Panjwani, Ms Indra Sawhney, V.B. Saharya, D.N. Goburdhun, R.C. Verma, Manish Shanker, Ms Pinky Anand, Ms Geeta Luthra, K.C. Kaushik, T.A. Khan, Ms Varuna Bhandari Gugnani, D.S. Mahra, S.W.A. Qadri, Ms Anil Katiyar, B.V.B. Das, S.N. Terdal, Y.P. Mahajan, P. Parameswaran, Ms Kavita Wadia, Kamalendra Mishra, Mukesh Verma, Rajeev Kr. Dubey, Ms Sheil Sethi, Suresh C. Tripathy, Rakesh K. Sharma and R.S. Suri, Advocates) for the appearing parties.

Chronological list of cases cited

	on page(s)	
1. (2001) 9 SCC 232, <i>Administrator, Nagar Palika v. Bharat</i>	614a-b	
2. (2001) 4 SCC 215, <i>V.M. Kurian v. State of Kerala</i>	614f-g	f
3. (1999) 6 SCC 532 (connected order), <i>M.I. Builders (P) Ltd. v. Radhey Shyam Sahu</i>	614a	
4. (1999) 6 SCC 464, <i>M.I. Builders (P) Ltd. v. Radhey Shyam Sahu</i>	613f	
5. (1996) 6 SCC 707, <i>K. Madan (Dr.) v. Krishnawati</i>	614e	
6. (1996) 4 SCC 351, <i>M.C. Mehta v. Union of India</i>	615g, 615h	g
7. (1996) 3 SCC 212, <i>Indian Council for Enviro Legal Action v. Union of India</i>	616a	
8. (1995) 2 SCC 577, <i>Virender Gaur v. State of Haryana</i>	613c-d	
9. (1987) 1 SCC 395 : 1987 SCC (L&S) 37, <i>M.C. Mehta v. Union of India</i>	616e	
10. (1986) 4 SCC 660, <i>Punjab National Bank v. Arjun Dev Arora</i>	614e-f	
11. (1973) 1 SCC 572, <i>Faqir Chand v. Ram Rattan Bhanot</i>	614b-c, 614f	
12. (1868) 3 HL 330 : (1861-73) All ER Rep 1, <i>Rylands v. Fletcher</i>	617d	h

The Judgment of the Court was delivered by

- Y.K. SABHARWAL, J.**— This case about unauthorised industrial activity in Delhi in residential area has a protracted background. The present examination is confined to the issue of industrial activity in residential/non-conforming areas to decide what directions may be issued to put an end to such illegal activity. As a result of orders passed from time to time, hazardous and noxious industries and heavy and large industries ('H' category) have been shifted out of Delhi. Some of the extensive industries ('F' category) have also been shifted out of Delhi. As per the State Government, non-polluting 'F'-category industries have not been yet shifted. The question is what should be done about continued unauthorised use contrary to the master plan and zonal plan by the remaining 'F' category and 'B' to 'E' categories (light and service industries) and household industries ('A'-category industries). These industries are continuing in residential/non-conforming areas. Such activity is mostly in residential areas. It is not in dispute that most of the continued industrial activity under consideration is in contravention of law except only a few household industries which are continuing in residential areas. To decide the question, it is necessary to first briefly notice orders passed by this Court during the last about one decade.
2. In the various orders passed in the year 1995, this Court noticed that a large number of industries were located in residential/non-conforming areas in violation of the Delhi Master Plan formulated under the Delhi Development Act, 1957 (for short "the DD Act"), the Delhi Municipal Corporation Act, 1957 (for short "the DMC Act") and other statutory provisions. Noticing that the master plan stipulates setting up of industries only in conforming areas i.e. the industrial areas earmarked for that purpose, it was indicated that the industries in non-conforming areas have to stop functioning. The first concern of the Court was to stop the functioning of 'H'-category industries, since most of them were discharging highly toxic effluents. It was noticed that as per the affidavit filed by Mr D.S. Negi, Secretary (Environment), Government of Delhi, it was estimated that there were 93,000 industries which were operating in Delhi and majority of these were in non-conforming-use zones. Public notices by the Government invited all industries operating in non-conforming-use zones to give option to shift to available industrial plots in the industrial estates. The response from the industry was very poor. The industries operating in Delhi were called upon by issue of public notices in newspapers to furnish information in respect of the product manufactured, activity carried on, area, size, number of persons employed, power load, year of commencement, etc. Out of 93,000 industries, only 513 industries and 382 persons responded. It was noticed that MCD was granting licences and registering various industrial units in non-conforming areas and permitting the industries to be set up in residential areas. Naturally, surprise was expressed by this Court that on the one hand, the Court was issuing orders to reallocate the existing industries that were operating in the residential/non-conforming areas and on the other hand, MCD was permitting the setting up of new industries in residential areas. According to

598

SUPREME COURT CASES

(2004) 6 SCC

MCD, it was done under the directions of the State Government. MCD was directed not to register or grant licence to any industry in the non-conforming/residential area. a

3. We may also make a brief reference to the orders that were passed in the year 1996. In the order dated 19-4-1996[†], noticing the contention of the Solicitor General for India that certain household industries can be permitted to operate not only in residential areas but in residential premises itself, the Court observed that the provisions of the master plan have to be complied with and in case any non-residential activity is permitted in residential area under the master plan, that cannot be stopped. A High-Powered Committee was constituted to examine which type of industries could be permitted in the residential areas. The State Government was directed to issue public notices asking the industries which were operating in different residential areas of Delhi to approach the Committee for necessary permission. It was also made clear that the industries which do not obtain permission shall have to stop functioning in residential areas w.e.f. 1-1-1997. It would be useful to extract the relevant part of the order dated 19-4-1996[†] which reads as under: (SCC pp. 625-26, para 2) b

“We make it clear and direct that no industry in any residential area of Delhi/New Delhi shall be permitted unless it has obtained the clearance of the Committee and has obtained the necessary licence and the consent from the statutory authorities. All those industries which have not obtained necessary permission from the Committee shall stop operating in the residential area w.e.f. 1-1-1997.... We direct NCT, Delhi to give wide publicity to this order so that the industries are in a position to note that they have to obtain the necessary clearance from the Committee. Needless to say that while granting permission to an industry to run in a residential area, the Committee shall keep in view all the conditions laid down under the master plan including evaluation of impact on municipal services and environment needs of the area.” c

4. The orders were also passed directing the Delhi Government to issue public notices in newspapers requiring the industries in residential/non-conforming areas to apply for allotment of plots in the industrial estate and also giving undertaking that on such allotment they will shift from the existing place. The Court thinking that the Delhi Government was now seriously processing the project of relocating the industries operating in the residential/non-conforming areas of Delhi, left the field for the Government to act on its own and relocate the industry in terms of order dated 18-12-1996. The Government was, however, directed to file progress report in this Court every three months. d

5. It is a matter of anguish that subsequent events show that the trust that was reposed by this Court in the Government was belied in terms of the action to be taken for implementation of law, namely, the continuance of industrial activity in the areas in question in conformity with the user e

[†] Ed.: *M.C. Mehta v. Union of India*, (2004) 6 SCC 625, below f

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

599

prescribed by the master plan. On 8-9-1999, it was noticed that the progress report filed indicated that though some steps had been taken but the same had not been taken in the right earnest as a result of which industries are continuing to operate in the residential zone. The Court directed that if industries in the residential area cannot be shifted and relocated for any reason whatsoever by 31-12-1999, then those industries shall be closed down. The Government was directed to give due publicity in the newspapers so as to make the industries aware.

6. On 10-12-1999, the State Government came up with an application (IA No. 1206), inter alia, seeking modification of the order dated 8-9-1999 and for extension of time up to March 2004 for shifting of industries which had been found eligible for allotment of alternate industrial accommodation under the "Relocation Scheme" subject to their functioning in conformity with the pollution norms under the existing laws. As per what the Delhi Government itself says in this application, a survey conducted by the Delhi Pollution Control Committee in the year 1995-96 showed that about 1,26,000 industrial units were functioning in Delhi, out of which approximately 1,01,000 were in residential/non-conforming areas and only about 25,000 in approved industrial areas. The application also states that in these 1,01,000 illegally operating industrial units, about 7,00,000 workers would be employed. It was stated that closure of these industries will result in hardship to approximately 7,00,000 families.

7. The question would be, can the Government plead such a justification for violation of law and throw to the winds the norms of environment, health and safety or is it possible to help the workers even without violating law if there is a genuine will to do so? We would answer the question after noticing a few further facts:

In the application (IA No. 1206) it has been further stated that out of 52,000 applications received under the Relocation Scheme in December 1996, approximately 23,000 have been found to be eligible. The prayer in the application also is that the industrial units functioning in residential areas where concentration of industry is 70%, should continue to operate from their existing location. The applicant thus seeks *in situ* regularisation. According to the Government, about 15,000 industrial units would fall in this category and another approximately 6000 industrial units may fall in the category of household industries ('A' category).

8. At the outset, it deserves to be noticed that assuming, for the present, that facts stated above by the Government are correct and the plea of *in situ* regularisation is justified, then the immediate question would be as to what steps were taken by it in respect of remaining illegal and unauthorised industrial units, which number over 50,000. The Government has no answer, let alone a satisfactory answer, even despite lapse of nearly five years.

9. Reference may also be made to the progress reports filed in this Court pursuant to the orders dated 18-12-1996. The first report dated 31-3-1997 sought extension of time for closure of those industries which had applied for

600

SUPREME COURT CASES

(2004) 6 SCC

allotment of industrial plots/flats and had submitted the requisite undertakings prescribed by this Court. For them extension was asked for till such time the industrial accommodation with power connections were ready in newly constructed/developed flatted factory complexes/industrial estates. Thus, the extension sought was for the above category of industrial units and not others. That being the position, others could continue the illegal industrial activity only because of inaction by the Government. It is evidently total non-implementation of the statutory provisions. In yet another report (for the period ending 31-3-1998), it was stated that survey of industries in all districts has shown that in respect of 50,704 industrial units, 21,681 units have not applied under the Relocation Scheme. The same question would again arise, why no action has been taken in respect of these industries. The scenario is same in respect of the progress reports filed up to the period of 30-9-1998 regarding the relocation of industries operating in residential/non-conforming areas of Delhi.

10. Before filing IA No. 1206 of 1999 or at least in that application itself, the Government did not think it advisable to state what action it will take against those who were not found eligible or those who did not even apply and were continuing industrial activity in violation of law. Further, it did not state how many would fall in the category of *in situ* regularisation and in 'A'-category industry. In this connection, reference may also be made to the observations in the order dated 8-2-2001 that there was an unexplained figure of more than 32,000 industries in non-conforming areas which would not be covered by: (i) *in situ* regularisation, or (ii) fall within the expected expanded definition of "household industry", or (iii) come under the category of industries which had applied and had been found eligible for allotment of land. It was noticed that no explanation was given with regard to these industries continuing in the non-conforming areas. The position after lapse of nearly 3 years is no better.

11. Regarding the total number of industrial units functioning in residential/non-conforming areas, different surveys have given different figures, as per the material placed before this Court by the Government. There is also no clarity as to the facts and figures regarding infrastructure, etc. in respect of the industrial units being considered for *in situ* regularisation. Although in the affidavit filed on 5-8-2000 by the Principal Secretary and the Commissioner of Industries of the Delhi Government, it was stated that the Government had recommended *in situ* regularisation, it has not been stated as to what is the position of water, electricity and other facilities for the industries; what is the planning for remaining 30% residents as they may be deprived of electricity, water and other facilities on account of overdrawal by the 70% industrial units. Whether 30% who are using the premises in accordance with the permissible use in the master plan must continue to suffer at the hands of those who are functioning in violation of the master plan. This question has remained unanswered despite elaborate arguments spread over various dates. On the aspect of *in situ* regularisation, the stand of the Delhi Development Authority, as contained in the affidavit of

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

601

its Commissioner (Planning) dated 11-9-2000 was that DDA was favourably considering *in situ* regularisation with the following conditions:

- a (i) Building norms shall be the same as that for the residential premises.
- (ii) Non-pollutant/non-hazardous industries would be allowed to operate.
- (iii) Augmentation of infrastructure as per requirement would be undertaken to meet the growing demand as a result of conversion of these areas into manufacturing (light and service) household industries.

12. Despite lapse of about 3 years, nothing significant, either in respect of infrastructure or the other conditions, has been done. The second master plan of Delhi was enforced w.e.f. 1-8-1990. In respect of 'F'-category industries, it provides that no new industrial unit shall be permitted except in the existing identified extensive industrial areas. In respect of such 'F'-category industries which were already existing in non-conforming areas, the master plan provides that the said industrial units shall be shifted to the permissible industrial-use zone within a maximum period of three years after the allotment of plots by various government agencies. On one hand, the master plan stipulates the shifting of existing 'F'-category industrial units within a specified time-limit and on the other, new industrial units have come up even after enforcement of the master plan and even in respect of such units the Government has not only failed to take action but has also failed to take a positive stand before this Court that immediate steps would be taken to stop such blatant violations. Further, when the Government is asked to give suggestions regarding stoppage of functioning of these industrial units, the suggestion that comes forth is that the industrial units in residential/non-conforming areas which were set up after 1996 may be directed to stop the industrial activity contrary to the master plan. Those violators who had commenced industrial activity in residential/non-conforming areas after 1-8-1990 are also not being excluded from the proposal of *in situ* regularisation.

13. It is also necessary to note as to what stand from time to time the Ministry of Urban Development has taken on the aspect of *in situ* regularisation. In an affidavit dated 4-12-2000 filed by its Deputy Secretary, reliance has been placed by the Ministry upon the statement made by its Minister on the floor of the House on 24-11-2000. In that statement, opposing regularisation, the Minister said as to what Delhi we want to live in, what type of legacy do we wish to bequeath to posterity and to our children and grandchildren; do we want our city to become a junkyard of unauthorised constructions, mirroring civic and moral chaos, or an orderly and disciplined capital of a resurgent republic, embodying values of justice and honesty on the basis of which we have often claimed a pre-eminent position for our culture and civilisation. The statement further gave facts and figures that 50 million gallons per day of industrial waste is going into the Yamuna and said that what is seen flowing in it today is nothing but sewage and industrial waste. In Okhla alone, for instance, during March-April 2000, the biochemical oxygen demand (BOD) level in the river was about 70 mg per

602

SUPREME COURT CASES

(2004) 6 SCC

litre as against a standard of 3 mg per litre i.e. 25 times more than the permissible level. An apprehension was expressed that if the present attitudes and practices persist, Delhi would run the risk of having as many as 30 million people in the next few years and becoming an ugly, unhealthy, unworkable and unliveable city. In the process, a fatal blow would also be dealt to the development of the National Capital Region which comprises a substantial part of three important neighbouring States of Haryana, Rajasthan and Uttar Pradesh. The affidavit states that in case of *large number of residential colonies, with so-called 70% concentration of industries of which the entire land use is sought to be changed from residential to industrial, should the master plan be amended to destroy its very soul and structure or subvert the basic norms of health, habitation and environment or reward the illegal establisher of industries and in the process penalise the law-abiding residents and condemn them to stay forever in industrial areas or force them to abandon their houses built with hard-earned income? It also states that no one has made it clear where the residents would be taken, what would the cost of resettlement be, who will bear it and how would the layouts and pattern of services and infrastructure, meant for residential colonies, be adjusted to the requirements of industries and consequent traffic and transport that would flow not only in the colonies in question but also in their neighbourhood.* (emphasis supplied is ours)

14. In regard to the nature of survey that had been conducted resulting in the proposal of *in situ* regularisation in areas having 70% concentration of industries, the affidavit states that demand to secure vital and large-scale changes in the master plan, which would have the effect of tearing its entire fabric apart, is based upon the preliminary and perceptual survey of three officers of the Industries Department of the Government of Delhi. The report itself calls the survey “preliminary”. The survey is neither scientific nor precise nor reliable. It does not even contain detailed particulars of industries — whether they are polluting or non-polluting, licensed or unlicensed. The survey also does not indicate as to how many industrial units belong to those industrialists who may have already obtained the benefits of relocation once, either from the Delhi Development Authority or from the Industries Department or have secured space in flatted factories and have come back again to the non-conforming areas, while keeping the alternative plots allotted to them for shifting, or have set up additional unit or units in the residential areas.

15. Now, let us see what the Ministry says after about three years in its affidavit dated 28-7-2003. The Guidelines for Master Plan for Delhi, 2021 issued by the Ministry were filed along with the said affidavit as also a letter dated 28-7-2003 sent by the Secretary of the Ministry to the Chairman of DDA. The letter states that the Ministry has made broad guidelines for the master plan which highlight some of the concerns that need resolution as well as possible policy initiatives so as to deal with the problems that affect Delhi. The letter further states that this should also address the issue of concentration of industries to the extent of 70% or more in some non-

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

603

industrial areas. The guidelines noticed that a major issue confronting the planned development of Delhi is the apparent and frequent violation of the planning and development and control norms. It states that there is a growing variation between the plan for Delhi and city on the ground and, therefore, it is essential that the master-plan policies should be implementable in an effective manner and vigorously enforced. The existing legal framework for enforcement of the master-plan provisions including unauthorised construction and encroachment on public land also needs examination so as to initiate proposals for its strengthening where necessary. In the guidelines, there is no specific reference to regularisation as such but evidently there is a slant in that direction in the stand of the Ministry. It is, however, nobody's case that any decision about regularisation has been taken.

16. Regularisation cannot be done if it results in violation of the right to life enshrined in Article 21 of the Constitution. The question will have to be considered not only from the angle of those who have set up industrial units in violation of the master plan but also others who are residents and are using their premises as allowed by law. Further, the regularisation affects not only the remaining 30% residents of the areas wherein regularisation may be in contemplation but has effect on the entire area, particularly with respect to the infrastructure available.

17. In respect of the infrastructure in housing components, what provisions should be made has been incorporated in the Master Plan, 2001 which has to be kept in view. The existing availability and projected need of water supply, sewerage, power and solid waste has been indicated in the master plan. None has applied his mind to any of these aspects.

18. At first instance, a proposal for *in situ* regularisation in 15 areas was considered. Now 24 areas are sought to be regularised. None of the aforesaid aspects regarding infrastructure has been considered before the proposal was sent by the State Government and the Delhi Development Authority for *in situ* regularisation to the Central Government. How can the Government of India agree in principle for *in situ* regularisation in isolation without anyone having examined the relevant considerations? It is evident that relevant aspects such as availability of sewerage, drainage, power and water have not been examined. Further, a perusal of the survey document shows that many industrial activities were polluting in nature. The proposal was considered by the Delhi Development Authority on 20-12-2002. The note dated 20-12-2002 notices that a large number of industrial clusters are existing in various parts of the National Capital Territory of Delhi in contravention of land use provisions of MPD, 2001 and thereby facing the problem in their continuance on their existing site and with a view to resolve this problem a policy needs to be evolved for regularisation/redevelopment of the said industrial clusters so that they may eventually be considered to be part of MPD, 2021. It was decided that the redevelopment proposal could be formulated and taken up by forming a cooperative industrial society by the beneficiaries. Total redevelopment work will be undertaken by the cooperative society at its own cost. Changes in land use and enhanced FAR facilities were directed to be

604

SUPREME COURT CASES

(2004) 6 SCC

paid to the authorities concerned by the society. All these proposals, without examination of the relevant consideration as noticed hereinbefore, were approved and were forwarded to the Government of India. All this has happened despite the fact that the Ministry of Urban Development, in terms of its letter dated 8-9-2000 had informed the Delhi Development Authority that the change in the master plan was not justified. No detailed justification for change of land use from residential to industrial and the parameters on which such change would be based had been given. The matter has also not been discussed and deliberated with the Central Pollution Control Board, Town and Country Planning Organisation and the Delhi Urban Arts Commission. It was not made clear as to what would happen to those who are using their residential premises in accordance with the provisions of the master plan. The changes in the master plan or its norms to accommodate illegal activities not only amount to getting reward for illegal activities but also result in punishing the law-abiding citizens. We may refer to another letter dated 15-11-2001 sent by the Ministry of Urban Development to the Delhi Development Authority on the issue of *in situ* regularisation stating that the issues of industrial housing, sanitation, infrastructure and adherence to pollution-control norms have to be stressed and detailed in such studies. DDA was also asked to consider whether such areas where non-conforming industries are presently operating are isolated black spots in an otherwise purely residential, semi-urban area or whether they represent logical extension of existing industrial neighbourhood. It reiterated that the quality of life, environment and the rights of the residents have to be highlighted in the forefront.

19. The question cannot be examined only from the angle of the industry or even those who are employed there in the said industries. It is imperative for the State Government, the Delhi Development Authority as also the Government to address itself to the larger question of not only legalising blatant illegalities but as to what Delhi is intended to be left for the children and future generations by permitting industrialisation in residential areas. The facts demonstrate that the State Government and the Delhi Development Authority have been wholly remiss in all their functions, duties and obligations. The Central Government, for reasons which are not far to seek, has been shifting its stand. As against a definite and positive stand taken in the years 2000 and 2001 and affidavits filed in this Court, there is a shift in the stand in the affidavits filed in the years 2002 and 2003. As against the principled stand taken in the affidavits filed in the year 2000, now the stand in a nutshell is that question would be considered when the master plan for 2021 is finalised. There is no plausible answer to the question as to why in the meanwhile the illegality should continue without any action. In any case, as at present there is no regularisation, the industrial activities in residential/non-conforming zones are wholly illegal.

20. The Delhi Development Authority has to bear in mind that it has to perform its function in accord with the provisions of the Delhi Development Act, 1957 which was enacted to provide for the development of Delhi

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

605

- according to the plan and for matters ancillary thereto. “Amenity”, as provided in Section 2(a), includes road, water supply, street lighting, drainage, sewerage, public works, etc. “Building”, as provided in Section 2(b), includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not. The obligation to prepare a master plan is contained in Section 7 of the DD Act. The master plan is required to define the various zones into which Delhi may be divided for the purposes of development and indicate the manner in which the land in each zone is proposed to be used. The preparation of the zonal development plans has been provided for in Section 8. The said plans provide for the proposed land use. The town planners are supposed to examine various aspects before preparation of the master plan and zonal plan and providing the land use. The Act provides for a detailed procedure for modification of the master plan and the zonal development plan (Section 11-A). Section 14 forbids use of land in contravention of the plans. It provides that no person shall use or permit to be used any land or building otherwise than in conformity with the plan in a zone. Section 29(2) is a penal provision, inter alia, providing for the penalty on any person who uses any land or building in contravention of Section 14. Section 31-A is the power of the authority to seal unauthorised development.
- a*
- b*
- c*
- d* **21.** The illegal industrialisation in residential/non-conforming area commenced and has continued and the Authority, the Government and its agencies have been totally negligent in discharge of their functions and obligations under the provisions of the DD Act.
- e* **22.** Regarding the non-setting up of industrial estates in Delhi what the position was in 1990, when the second master plan was enforced, is apparent from the affidavit dated 2-2-2001 filed by the Commissioner (Planning), Delhi Development Authority. Dealing with the question of relocation of non-conforming industries and the setting up of the industrial estates in Delhi, that affidavit states:
- f* “Master Plan for Delhi, 2001 (MPD, 2001), came in force on 1-8-1990, stipulates earmarking 6 to 7% of land in urban extension and thus the development of 16 new light industrial areas (1533 ha) and another 263 ha for extensive industrial area to be mainly utilised for shifting of existing incompatible industrial units. As per MPD, 2001 in 1981 there were about 46,000 industrial units out of which 8000 were in non-conforming areas which were to be shifted. It was reassessed that about 24,000 industrial units will require shifting and by 2001 the total number of industrial units will be around 93,000. MPD, 2001 clearly stipulates that the action for shifting of polluting industries is to be taken by the Delhi Administration, as cited below:
- g*
- h* ‘Action shall be taken by the Delhi Administration to prepare a list of individual noxious and hazardous industrial units to be shifted and depending on the pollution/hazard, administration may force

606

SUPREME COURT CASES

(2004) 6 SCC

these industrial units to shift within a maximum prescribed period of 3 years.’

It further stipulates the following policy guidelines:

‘— The hazardous and noxious industrial units are not permitted in Delhi. a

— No new heavy and large industrial units shall be permitted in Delhi.

— No new acid, chemical and paints and varnish industrial units to be permitted. b

— No new extensive industrial units shall be permitted except in existing identified extensive industrial areas. Existing non-conforming extensive industrial units shall be shifted to the extensive industrial-use zone within a maximum period of 3 years after the allotment of plots by various government agencies. c

— Non-conforming light and service industrial units with 20 or more workers shall be shifted to the industrial-use zones within a maximum period of 3 years after the allotment of plots and by providing necessary incentives by the various government agencies in conforming-use zones.’

3. The Delhi Administration vide the Chief Secretary’s letter dated 17-9-1991 addressed to the Vice-Chairman, Delhi Development Authority conveyed that ‘it is now the established policy of the Delhi Administration not to develop any new industrial estates in the Union Territory of Delhi. All non-conforming light and extensive industrial units would have to close down/shift on their own to areas outside Delhi, as no more industrial areas are to be developed, and (b) further, that in the additional 2% area being earmarked for service sectors/establishments industrial activities contained in Annexures III-A, III-B and III-C of the revised master plan would be promoted.’ ” e

23. The affidavit further states that the matter was placed before the Authority in its meeting dated 7-7-1992 and the proposal of the Delhi Administration with certain conditions was approved. DDA resolved that planning for industrial activity may continue as envisaged under the Master Plan of Delhi, 2001 at the rate of 6 to 7% of urban extension area. It further states that pending the said policy decision, no new industrial development was taken up and even the industrial area indicated in the development plan of Dwarka (181 hectares) was reverted to commercial and other land uses. f

24. In the light of the aforesaid, when even industrial area is reverted to commercial and other land uses, we fail to understand: g

1. Why no action was taken to enforce the master plan and for stoppage of the functioning of the industries in the residential/non-conforming areas;

2. How the industries commenced and continued their illegal activity; h

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

607

3. How can the State Government regularise the illegality even without existence and consideration of availability of infrastructure and in disregard to the rights of the residents on the ground of 70% concentration of industry in the concerned area(s).

25. Further, in the light of the letter of the Chief Secretary dated 17-9-1991, it is not open to the State Government to argue that for want of acquisition of the land, the industrial estates could not be developed. They had themselves written to DDA not to develop any new industrial estate in the Union Territory of Delhi. Even existing industrial area, as abovenoted, was diverted. The State Government has been repeatedly taking time from the Court for the shifting of the offending industrial activity. If it was not the responsibility of the State Government to shift the industry, what was the purpose of filing IA No. 1206 of 1999 seeking extension of time up to March 2004 and for seeking modification of the order dated 8-9-1999 whereunder the industries were directed to be closed by 31-12-1999? Even at the cost of repetition, we may again note that for the present, we are examining the aspect of shifting of industries which have come up after 31-12-1989 in residential/non-conforming areas. The letter dated 17-9-1991 also states that MCD announced its ad hoc registration policy in 1989 with the prior approval of the Lt. Governor to grant ad hoc registration to units which had unauthorisedly established themselves in non-conforming areas till 31-12-1989. In this situation, we see no reasons why those units which have come up after 31-12-1989 shall not be closed and sternly dealt with. We are unable to find any equity in favour of such violators of law.

26. The regularisation would also result in making the concept of NCR non-functional and inoperative.

27. The National Capital Region Planning Board Act, 1985 (for short "the NCR Act") was enacted to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for coordinating and monitoring the implementation of such plan and for evolving harmonised policies for the control of land uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development of that region and for matters connected therewith or incidental thereto. The areas within the National Capital Region are specified in the Schedule to the NCR Act. The National Capital Region comprises the area of entire Delhi, certain districts of Haryana, Uttar Pradesh and Rajasthan as provided in the Schedule. "Regional plan" as provided in Section 2(j) means the plan prepared under the NCR Act for development of the National Capital Region and for the control of land uses and the development of infrastructure in the National Capital Region. What the regional plan shall contain is provided in Section 10. Section 10(2) provides that the regional plan shall indicate the manner in which the land in the National Capital Region shall be used, whether by carrying out development thereon or by conservation or otherwise, and such other matters as are likely to have any important influence on the development of the National Capital

608

SUPREME COURT CASES

(2004) 6 SCC

Region and shall include the following elements needed to promote growth and balanced development of the National Capital Region, namely:

- “10. (2)(a) the policy in relation to land use and the allocation of land for different uses; a
- (b) the proposals for major urban settlement pattern;
- (c) the proposals for providing suitable economic base for future growth;
- (d) the proposals regarding transport and communications including railways and arterial roads serving the National Capital Region; b
- (e) the proposals for the supply of drinking water and for drainage;
- (f) indication of the areas which require immediate development as ‘priority areas’; and
- (g) such other matters as may be included by the Board with the concurrence of the participating States and the Union Territory for the proper planning of the growth and balanced development of the National Capital Region.” c

28. Section 27 provides that the provisions of the NCR Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the NCR Act; or in any decree or order of any court, tribunal or other authority. d

29. In exercise of power under Section 10 of the NCR Act, the Government of India has prepared Regional Plan, 2001 for the National Capital Region as approved by the National Capital Region Planning Board constituted under Section 3(1) of the NCR Act. Besides others, the Union Minister for Works and Housing as Chairman of the Board, the Chief Ministers of Haryana, Rajasthan, Uttar Pradesh and Delhi are members of the said Board. Regional Plan, 2001 recognises the unprecedented growth of Delhi and notices that the planned growth of Delhi is possible only in a regional context. In fact, the need for regional approach was felt as early as in 1959 when the draft master plan of 1962 recommended that a statutory National Capital Region Planning Board should be set up for ensuring balanced and harmonised development of the region. e

30. The aforesaid plan took into consideration the host of serious problems by which Delhi was besieged and the causes of those problems and the genesis of Delhi’s growth on account of rapid urbanisation and ability to offer wide opportunities for large-scale employment through specialisation and increased productivity in manufacturing and supporting services. It noticed that till 1951, Delhi was essentially an administrative centre with a population of 14.5 lakhs but, the expansion of industry, trade and commerce providing opportunities for economic development, in turn, began to transform its character from an administrative city to a multifunctional city and, exhibited a significant functional shift to industrial character in 1981 when its population size became 57.3 lakhs, recording a growth of about 300% since 1951. It also notices that as Delhi grows, its problems of land, housing, transportation and management of essential infrastructure like water f

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

609

- supply and sewerage become more acute. The city lacks reliable and adequate sources of water and, thus, has to depend upon the adjoining States to meet its water-supply requirements. The plan notices the need for the development policies, programmes and plans aiming to relieve Delhi from additional pressures and avoid adding new pressures. We may note that in the affidavit dated 29-9-2000 filed by the Deputy Secretary of the Ministry of Urban Development, it was stated that those requiring plots of more than 250 sq metres would be accommodated in the National Capital Region where plots of very large size are available with all necessary infrastructure facilities. Further, the documents filed along with another affidavit of the same officer dated 29-11-2000 show the progress of certain items of work as noticed in the meeting dated 21-9-2000 of a cell that had been constituted by the Ministry of Urban Development which had been appointed as a nodal agency pursuant to the order of this Court dated 12-9-2000 in respect of the National Capital Region. It states:

“V. National Capital Region — Interface

- An Interface amongst the industrialists of Delhi and those of the three National Capital Region States has been organised by the Ministry of Urban Development, through the National Capital Region Planning Board on 30-9-2000 at Vigyan Bhawan from 10.00 a.m. onwards. The basic objective of this Interface is to facilitate exchange of information amongst the industrialists of the National Capital Region and to acquaint them with the facilities that are available, including larger size of plots, lower cost of plots and availability of auxiliary infrastructure in the shape of residential plots and commercial plots.

- The Delhi industrialists would be made aware of the fact that many big industrial houses like Sony, Daewoo Motors etc. are setting up their industries in the National Capital Region States and this would give rise to demand for ancillary industries. The representatives of Haryana State Industrial Development Corporation (HSIDC), U.P. State Industrial Development Corporation (U.P. SIDC) and Rajasthan State Industrial Development and Investment Corporation (RIICO) would also be attending the Interface and would indicate the loan facilities that would be made available.

- The National Capital Region Planning Board has facilitated development of 1,14,000 residential plots, 17,000 commercial plots/office space and 10,000 industrial plots/sheds in the National Capital Region.”

- 31.** In the affidavit dated 4-12-2000 of the same officer, it has been stated as under:

- “That at the said Interface an exhibition was also organised, where the agencies of three State Governments — Haryana, Rajasthan and Uttar Pradesh — displayed their information in respect of availability of plots as well as of industrial infrastructure. It was indicated that over 6000 industrial plots of various sizes, ranging from 100 to 1 lakh sq m were

610

SUPREME COURT CASES

(2004) 6 SCC

available for immediate allotment. Some of these plots were of very large sizes and they could be subdivided to create a larger number of plots.

That another meeting of senior officers of the State Governments of three National Capital Region States and their Resident Commissioners was called by the Union Urban Development Minister on 30-11-2000. In this meeting, the Government of Haryana indicated that besides vacant plots already developed in industrial estates, it would, if required, develop 14,487 acres of land separately and make available as many as 80,000 plots of average size of 500 sq m. The necessary infrastructure is either available or can be made available in a short time.”

32. The material on record shows that the National Capital Region Planning Board has been taking initiative to encourage the shifting of the industries to the National Capital Region. It appears that in January 2001, a number of plots were available in the States of Rajasthan, Haryana and Uttar Pradesh for industries to shift. The industry was also informed that large plots can be further subdivided to accommodate more number of small units. It does not, however, appear that any significant interest was shown by the industry. We are not suggesting that there are no problems but the same are not insurmountable and can be sorted out. There is no obligation to provide alternative plots to those who illegally commenced industrial activity. The second master plan stipulates to provide alternate plots only to those who had set up industrial units up to 31-12-1989. As already observed earlier, presently we are concerned with shifting of the industries which were set up from the year 1990 onwards contrary to the permissible use in the master plan. It is a matter for the Government to decide if it wants to provide alternative industrial plots to those who illegally commenced that activity but that cannot further delay the closing of continuing illegal industrial activity. In our view, lack of action and initiative by the authorities is the main reason for the industry merrily continuing illegal activity. There is total lack of enforcement of law by the authorities concerned.

33. Regarding the availability of alternate industrial plots, it may be useful to notice the plots that are available in the National Capital Region. The affidavit filed on 8-5-2003 on behalf of the NCR Planning Board states that plots on 2433.63 acres of land in the National Capital Region were available. If there are teething problems, it is for the authorities concerned to sort out the same.

34. Laghu Udyog Bharati, an association of small-scale industries, has taken the stand that the Government has been issuing ad hoc licences and collecting taxes from industrial units which would show that the industries were working within the knowledge and consent of the Government. The stand taken is that since the industries were working with the consent of the Government, it cannot be said that the use by industries is non-conforming. The stand is wholly misconceived. An illegality would not become a legality on inaction or connivance of the government authorities. There cannot be any doubt that non-conforming industrial activities could not have commenced or

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

611

a continued at such a large scale in the capital of the country if the Government and the authorities concerned had performed their functions and obligations under various statutes. But such a situation cannot be permitted to continue forever so as to reach a point of no return, where the chaotic situation in the city has already reached. The lawbreakers, namely, the industries cannot be absolved of the illegalities only on the ground of inaction by the authorities. It would be useful to note as to what is stated in the affidavit of the President of the aforesaid Association. It reads:

b *“The chaotic situation existing today would not have developed had the authorities carried out their duties and taken steps to develop industrial areas as provided for in MPD, 1962 as well as MPD, 2001. For reasons best known to the authorities, the planned development of Delhi was never undertaken. On the other hand, they were busy in granting ad hoc licences for non-conforming areas, electricity connections, water connections, collecting electricity, water, property tax at commercial rates; collection of sales tax and excise from these industries, which were coming up. Had the authorities concerned discharged their duties cast upon them by the two master plans, the legal and statutory document for the planned development of Delhi to which they were duty-bound, perhaps the situation, which Delhi is in today, would not have arisen.”* (emphasis has been supplied by us)

The affidavit further states that:

e *“That it is respectfully submitted that till today not only MCD, but also DVB, Water Department, Excise and Sales Tax Departments, Factory Departments, Provident Fund and ESI Department have been recognising the existence of the industries in the non-conforming areas and in total each industry is being visited by 53 departmental inspectors of the Government.”*

35. From the facts noticed above, it is evident that a casual approach was adopted in recommending *in situ* regularisation.

f 36. A report of a group of experts set up for determining polluting industries amongst list of 54 ‘F’-category industries under MPD, 2001 reported that the industrial processes involving or using electroplating, dyeing, pickling, anodising, coal-fired boilers, forging and casting are polluting in nature and recommended a list of 33 activities to be polluting. The report is filed along with the affidavit dated 5-2-2001 of the Commissioner of Industries of the Delhi Government. The proposal for *in situ* regularisation, however, does not even exclude the industries carrying the said activities from regularisation. Further, the proposal does not state what manufacturing activities are being carried on in 24 areas where the regularisation was contemplated. In fact, in respect of the areas where *in situ* regularisation is under contemplation, many manufacturing activities even going by the report of the group of experts, would be polluting. All this shows total non-application of mind.

612

SUPREME COURT CASES

(2004) 6 SCC

37. In respect of a large number of unauthorised industrial activities in non-conforming areas, the municipal authorities have expressed helplessness in taking action on the apprehension of breakdown of law and order in areas. The Municipalities have constitutional responsibilities of town planning. Part IX-A was inserted by the Constitution (Seventy-fourth Amendment) Act, 1992 w.e.f. 1-6-1993. Article 243-W provides for the powers, authority and responsibilities of the Municipalities, etc. Article 243-W reads as under:

“243-W. *Powers, authority and responsibilities of Municipalities, etc.*— Subject to the provisions of this Constitution, the legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.”

38. The Municipal Corporation has the responsibility in respect of matters enumerated in the Twelfth Schedule of the Constitution of India, regulation of land use, public health, sanitation, conservancy, solid-waste management being some of them. Section 345 of the DMC Act contains the power of the Commissioner to seal. Section 416(1) provides that no person shall, without the previous permission in writing of the Commissioner, establish in any premises, or materially alter, enlarge or extend, any factory, workshop or trade premises in which is intended to employ steam, electric, water or other mechanical power. Section 417(1) stipulates that no person shall use or permit to be used premises for any of the following purposes without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, namely:

“417. (1)(a) any of the purposes specified in Part I of the Eleventh Schedule;

(b) any purpose which is, in the opinion of the Commissioner dangerous to life, health or property or likely to create a nuisance;

(c) keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce thereof; or

(d) storing any of the articles specified in Part II of the Eleventh Schedule except for domestic use of any of those articles.”

39. Section 461 provides for punishment for certain offences. Part I of the Eleventh Schedule of the DMC Act provides the purposes for which the

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

613

premises may not be used without a licence. The Twelfth Schedule provides for various penalties i.e. fine and imprisonment which may be imposed on contravention of various provisions of the DMC Act. It does not lie in the mouth of the Corporation to plead helplessness to carry out responsibilities and obligations under the DMC Act. The sealing of the premises was done in two phases i.e. on 7-1-2001 and in the second phase as on 3-3-2001. Out of nearly 35,522 units only 5139 units were sealed. It has not been explained whether any sealing was done in the areas now under contemplation for regularisation on the ground of 70% industrial concentration. The Delhi Government and DDA have also not explained whether while arriving at the figure of 70% industrial concentration, the industries which were not operating or those premises which were lying vacant or those which were sealed in Phases 1 and 2, were taken into consideration or not. These questions arise since the survey conducted by MCD in some of the areas shows that a large number of premises were lying vacant and/or no industrial activity was going on. Further, the survey also shows that many industries were carrying on industrial activity which was per se polluting.

40. In *Virender Gaur v. State of Haryana*¹ referring to Principle 1 of the Stockholm Declaration of the United Nations on Human Environment, 1972, this Court observed that right to have living atmosphere congenial to human existence is a right to life. The State has a duty in that behalf and to shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment. Where in the zonal plan, a land is marked out and reserved for park or recreational purpose, it cannot be allotted for building purpose though housing is a public purpose. Further, it was observed that though the Government has power to give directions, that power should be used only to effectuate and further goals of the approved scheme, zonal plans, etc. and the land vested under the scheme or reserved under the plan would not be directed to be used for any other public purposes within the area envisaged thereunder. Dealing with the contention that two decades had passed, it was held that self-destructive argument to put a premium on inaction cannot be accepted.

41. In *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*² this Court observed that no consideration should be shown to a builder or any other person where the construction is unauthorised. Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judicial discretion wherever it is required to be exercised has to be in accordance with law and set legal principles. Judicial review is permissible if the impugned action is against law or in violation of the prescribed procedure or is unreasonable, irrational or mala fide. In para 73, this Court reiterated that in numerous decisions, it has been held that no consideration should be shown to the builder or any other person where construction is unauthorised. This dicta is now almost bordering the

¹ (1995) 2 SCC 577
² (1999) 6 SCC 464

614

SUPREME COURT CASES

(2004) 6 SCC

rule of law. A discretion which encourages illegality or perpetuates an illegality cannot be exercised. In *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*³ this Court declined to come to the aid of a law-violator. a

42. In *Administrator, Nagar Palika v. Bharat*⁴ this Court observed that public interest has to be understood and interpreted in the light of the entire scheme, purpose and object of the enactment. The hazard to health and environment of not only the persons residing in the illegal colonisation area but of the entire town as well as the provision and scheme of the Act had to be taken into consideration. b

43. In *Faqir Chand v. Ram Rattan Bhanot*⁵ dealing with the use of premises in Delhi by a tenant contrary to the purpose for which they could be used in terms of the lease between the landlord and the paramount lessor, this Court observed, while dealing with a landlord-tenant dispute that the policy of the legislature seems to be to put an end to unauthorised use of leased land rather than merely to enable the authorities to get back possession of the leased lands. While dealing with the provisions of the DD Act and clause (k) of the proviso to sub-section (1) of Section 14 of the Delhi Rent Control Act, 1958, it was noticed that the legislature has clearly taken note of the fact that the enormous extents of land have been leased by the three authorities mentioned in that clause, and has expressed by means of this clause its anxiety to see that these lands are used for the purpose for which they were leased. It was also observed that the authority may not be prepared to accept compensation but might insist upon cessation of the unauthorised use. Since most of the land used for industrial purpose in residential/non-conforming areas is leased land, it was even open to the authorities to cancel the lease on account of the misuser. c

44. In *K. Madan (Dr.) v. Krishnawati*⁶ it was held that observations made in *Punjab National Bank v. Arjun Dev Arora*⁷ to the effect that as long as the penalty for wrongful user is continued to be paid, the deviation of user could be permitted, do not appear to be in consonance with the decision of the larger Bench in *Faqir Chand case*⁵. On one hand, we have the decisions observing that merely by payment of penalty, continued misuser cannot be permitted and on the other, the misuser commenced and continued contrary to the land use under the nose of the authorities without any action being taken. d

45. In *V.M. Kurian v. State of Kerala*⁸ while quashing the order passed by the State Government exempting the provisions of the Kerala Building Rules, 1984 for constructing an eight-storeyed building contrary to the mandatory provisions of the Rules, it was observed that the Rules were mandatory in e

3 (1999) 6 SCC 532 (connected order)

4 (2001) 9 SCC 232

5 (1973) 1 SCC 572

6 (1996) 6 SCC 707

7 (1986) 4 SCC 660

8 (2001) 4 SCC 215 f

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

615

a nature and are required to be complied with. The construction of high-rise building and observance and compliance therewith is for public safety and convenience. There cannot be relaxation of the Rules which are mandatory in nature and cannot be dispensed with especially in the use of a high-rise building.

b 46. In the present case, the land cannot be permitted to be used contrary to the stipulated user except by amendment of the master plan after due observance of the provisions of the Act and the Rules. Non-taking of action by the Government amounts to indirectly permitting the unauthorised use which amounts to the amendment of the master plan without following due procedure.

c 47. In this very matter, dealing with the industries of 'H' category which now stand shifted pursuant to the order of this Court, it is pertinent to note what a three-Judge Bench, of which one of us (B.N. Agrawal, J.) was a member, said in relation to entrepreneurial failure and total apathy and non-concern for social good and benefit by the authorities as under:

d "The issues are long pending — the issues are urgent since the entire society is impaired — no exception can be taken to the legal battles involved in an adversarial litigation — this is not one such instance: it is a true public interest litigation for the protection of the society and to avoid a deliberate peril arising out of entrepreneurial failure and total apathy and non-concern for social good and benefit. The Delhi Development Act of 1957 envisaged preparation of a master plan for Delhi with a definite statutory direction to define various zones into which Delhi may be divided for the purposes of development and the manner in which the land in each zone is proposed to be used and the stages by which such development shall be carried out. As a matter of fact the master plan came into existence in 1962 and 'H'-category industries ought to have shifted out of the area specified therein by 1962 itself. Then came the master plan of 1990 to combat the existing situation with a specified period of shifting within three years i.e. there was an obligation on the 'H'-category industries to shift and relocate in terms of the master plan by the year 1993 and the social activist by reason of the failure of the entrepreneurs, moved this Court in 1995 whereupon, after allowing all possible opportunities to all entrepreneurs and upon assessment of the situation through the appointments of commissions and obtaining various reports on these aspects, passed the order on 10-5-1996 (*M.C. Mehta v. Union of India*⁹) which has till date not been complied with — indeed a sorry state of affairs and a total neglect and apathy towards the society, new and novel submissions are advanced as in any adversarial litigation but unfortunately as noticed above it is too late in the day to contend otherwise, apart from what the order contains as of 10-5-1996 (*M.C. Mehta v. Union of India*⁹)."

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9 (1996) 4 SCC 351

616

SUPREME COURT CASES

(2004) 6 SCC

48. In *Indian Council for Enviro Legal Action v. Union of India*¹⁰ this Court was concerned with a public interest writ petition filed by an environmentalist association alleging environmental pollution caused by private industrial units. It was held that the writ petition is not really for issuance of appropriate writ, order or directions against the units/factories which were running polluting industries and had not even installed any equipment for treatment of highly toxic effluents by them, but was directed against the Union of India, the Government of Rajasthan and the Rajasthan Pollution Control Board to compel them to perform their statutory duties which they had failed to carry out and thereby seriously undermined the right to life of the residents of Bichhri and the affected area, guaranteed by Article 21 of the Constitution. If this Court finds that the authorities had not taken action required of them by law and that their inaction is jeopardising the right to life of the citizens of this country or any section thereof, it is the duty of this Court to intervene. If it is found that the respondents are flouting the provisions of law and the directions and orders issued by the lawful authorities, this Court can certainly make appropriate directions to ensure compliance with law and lawful directions made thereunder. If an industry is established without obtaining the requisite permission and clearances and if the industry is continued to be run in blatant disregard of law to the detriment of life and liberty of the citizens living in the vicinity, can it be suggested with any modicum of reasonableness that this Court has no power to intervene and protect the fundamental right to life and liberty of the citizens of this country?

49. We may also recall what the Constitution Bench said in *Oleum Gas Leak case (M.C. Mehta v. Union of India)*¹¹ in relation to hazardous or inherently dangerous industry, and we quote: (SCC pp. 420-21, paras 31-32)

“We are of the view that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part. Since the persons harmed on account of the hazardous or inherently dangerous activity carried on by the enterprise would not be in a position to isolate the process of operation from the hazardous preparation of substance or any other related element that caused the harm the enterprise must be

¹⁰ (1996) 3 SCC 212

¹¹ (1987) 1 SCC 395 : 1987 SCC (L&S) 37

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

617

a held strictly liable for causing such harm as a part of the social cost of carrying on the hazardous or inherently dangerous activity. If the enterprise is permitted to carry on an hazardous or inherently dangerous activity for its profit, the law must presume that such permission is conditional on the enterprise absorbing the cost of any accident arising on account of such hazardous or inherently dangerous activity as an appropriate item of its overheads. Such hazardous or inherently dangerous activity for private profit can be tolerated only on condition

b that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not. ... We would therefore hold that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such

c hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability under the rule in *Rylands v. Fletcher*¹².

d We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous

e activity by the enterprise.”

f **50.** We may note that some of the industrial activities like the plastic industry are inherently dangerous and are being carried on in residential/non-conforming areas. Such industrial activity is also carried on in areas in respect whereof regularisation is under contemplation allegedly on account of 70% concentration of industrial activity in the residential area. These facts are evident from the material placed by the respondents themselves before this Court.

g **51.** The growth of illegal manufacturing activity in residential areas has been without any check and hindrance from the authorities. The manner in which such large-scale violations have commenced and continue leaves no manner of doubt that it was not possible without the connivance of those who are required to ensure compliance with law and reasons are obvious. Such activities result in putting on extra load on the infrastructure. The entire planning has gone totally haywire. The law-abiders are sufferers. All this has happened at the cost of health and decent living of the residents of the city violating their constitutional rights enshrined under Article 21 of the Constitution of India. Further, it is necessary to bear in mind that the law-

h makers repose confidence in the authorities that they will ensure

¹² (1868) 3 HL 330 : (1861-73) All ER Rep 1

618

SUPREME COURT CASES

(2004) 6 SCC

implementation of the laws made by them. If the authorities breach that confidence and act in dereliction of their duties, then the plea that the observance of law will now have an adverse effect on the industry or the workers cannot be allowed. Within the framework of law, keeping in view the norms of environment, health and safety, the Government and its agencies, if there was genuine will, could have helped the industry and workers by relocating industries by taking appropriate steps in the last about 15 years. On the other hand, it encouraged illegal activities. a

52. It may be noticed that the proposal of *in situ* regularisation has also been opposed by the National Region Board which has pointed out that the very purpose of the Act would be defeated by such regularisation. It would lead to further congestion of Delhi instead of decongestion which was the very purpose for which the Act was enacted. Mr Mukul Rohatgi, learned Additional Solicitor General appearing for the Municipal Corporation of Delhi, Ms Sheil Sethi, learned counsel appearing for the National Region Board and Shri Panjwani, learned counsel appearing for the Central Pollution Control Board have opposed the continued unauthorised use for industrial activity of residential/non-conforming areas as also the proposal of *in situ* regularisation. It has been contended that such industries should be immediately closed down/shifted. Ms Sethi contended that *in situ* regularisation would defeat the very purpose of the Act under which NCR was established. The contemplated action of regularisation would run counter to the object of the Act which is to decongest the city of Delhi from the industrial activity. The act of regularisation would result in further congesting an already highly congested city. Mr Panjwani contended that the regularisation would further result in air and water pollution and would also affect the underground water. Learned counsel further submitted that from material on record, it does not appear that anyone has been examined as to what effect the regularisation will have on the aspect of pollution. It has been pointed out on behalf of CPCB that such regularisation would result in further pollution of air ambient, water pollution besides causing other environmental hazard. For reasons already stated, we find substance in these contentions. b c d e f

53. Residents of Poorvi Viswas Nagar Samaj Kalyan Samiti have filed Writ Petition No. 98 of 2000 opposing *in situ* regularisation and pointing out that Viswas Nagar is an approved residential area where residential buildings have been constructed by the residents and no industrial activity is allowed as per law. Many of the plots in which the people are residing were purchased by them from the Custodian of Evacuee Property. It is further pointed out that recently industrial units were established in contravention of rules and by adopting unfair means. They have, thus, objected to the *in situ* regularisation. g

54. From the aforesaid, it is evident that the industry belonging to 'F' category in residential/non-conforming areas could not come up after 1-8-1990 since even the existing 'F'-category industry in non-conforming areas was required to be shifted to the permissible zone within a maximum period of three years after allotment of plots. The same is the position in h

respect of light and service industry belonging to 'B' to 'E' categories except that depending upon the number of workers employed, the master plan stipulates different time schedule for these industries to shift.

a **55.** Despite the time span mentioned in the 1990 master plan having expired and various opportunities having been given during 1995, 1996 and 1997 and notices issued, and 13 years having passed, the non-conforming use by the industry has continued. A time has come that such non-conforming use must stop at least by those who commenced it from and after 1-8-1990.

b **56.** The position in respect of household industries which are permissible, the question of the same not being carried on in residential/non-conforming area would not arise. The difficulty arises in carrying on of such activity of household industry which is not permissible. The State Government sought expansion of 'A'-category industries. The Government of India has approved only 6 out of the list of 41 industries. In case the remaining are not approved, impermissible 'A'-category industrial units shall also have to stop functioning. It is imperative for the Central Government to expeditiously decide this issue one way or the other. In short, permissible household industrial activity can go on and impermissible activity has to stop.

c **57.** The plea of *in situ* regularisation and mild resistance to shifting has been propounded only by Mr Goburdhun, learned counsel appearing for the Delhi Government. In same fashion it was substantially supported by Mr Kailash Vasdev, Senior Advocate appearing for the Union of India and Mr Saharya, learned counsel appearing for the Delhi Development Authority though without taking a definite stand. DDA merely adopted the stand of the Union of India. Insofar as the Union of India is concerned, having already taken a contrary stand as above noticed, it adopted a middle path without clearly supporting or opposing the Delhi Government on the issue of *in situ* regularisation by taking a stand that it has issued guidelines and would consider the question of *in situ* regularisation at the time of finalisation of Master Plan, 2021. The said master plan is not likely to be finalised for another 2 years. In this view, the suggestion of the Delhi Government is that pending approval of proposal of *in situ* regularisation, the industrial units falling in that category may not be ordered to be closed/shifted from residential/non-conforming areas. In other words, it means that the illegality should be further permitted to be continued till the new master plan is finalised — whether it takes two years or more. In regard to other illegal industrial units, the suggestion put forth on behalf of the Delhi Government is that immediate directions for closure/shifting of only those industrial units shall be made which were set up after 31-12-1996 as under the order dated 19-4-1996[†], the industrial activity in residential/non-conforming areas was directed to be closed after 31-12-1996. We, however, see no justification for continuance of the illegal and unauthorised industrial activity in residential/non-conforming areas which commenced after 1-8-1990. It would also apply to industries in Categories 'B' to 'F'.

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[†] **Ed.:** *M.C. Mehta v. Union of India*, (2004) 6 SCC 625, below

620

SUPREME COURT CASES

(2004) 6 SCC

58. In respect of household industry belonging to 'A' category, it was contended on behalf of the Delhi Government that the number of industries falling in that category is being expanded and proposal for additional 41 items for being placed in Category 'A' has been approved by DDA and the matter is pending with the Government of India and, therefore, the industrial units carrying on any activity falling in the proposed expanded category should also not be shifted for the present. It appears that out of 41 items, the Government of India has granted approval in respect of 6 items and no decision has been taken, one way or the other, in respect of remaining 35 items. We again reiterate that the question is only of stopping unauthorised and illegal activity and not that activity which is permissible. a

59. We may note another argument put forth on behalf of the Delhi Government that it is not the function and responsibility of the Delhi Government to enforce the master plan, it has no powers to enforce it. We are not only surprised but shocked at such a frivolous stand being taken, despite what is stated in the order passed by this Court on 18-12-1996. That order noticed the reason as to why the Court thought it appropriate to step aside. It was noticed that seemingly the State Government was seriously enforcing the law. At that stage, no argument about absence of power was put forth. If it was not the function and responsibility of the State Government and the Government had no power, we wonder the reason why the Government filed IA No. 1206 seeking extension of time up to March 2004 to relocate the industries. We summarily reject this wholly frivolous submission. b

60. Neither on behalf of the Government of India nor on behalf of the Delhi Government nor on behalf of any statutory authority, could it be disputed that the unauthorised and illegal industrial activity has commenced and continued in Delhi in blatant breach of the provisions of the master plan and no action has been taken by any authority. The responsibility to take action was sought to be shifted; each blaming the other. While on behalf of the Delhi Government, as above noticed, it sought to avoid its obligation on the ground that it is not the function of the State Government to implement the master plan. The Government of India avoided its responsibility on the ground that the Central Government is not the implementing agency though the manner in which the Central Government has taken a somersault in its stand already stands noticed. Similarly, the other statutory authorities have also avoided to shoulder the responsibility for inaction for the blatant breach of the legal provisions. The respondents have been taking a convenient stand from time to time without any regard for statutory provisions and have at least turned their face to the other side knowing that blatant breach is being committed, even if we assume that there was no connivance with the industry for extraneous considerations. Master Plan, 2001 stipulates the shifting of extensive industries ('F' category) to conforming zone within a period of three years after allotment of plots by authorised government agencies. In respect of light and service industries ('B' to 'E' categories), it provides shifting to the industrial-use zone within a maximum period of three years after allotment of plots and by providing necessary incentive by various government agencies in conforming-use zone. This is in respect of all industrial units with 20 or more workers. In respect of industrial units with 10 c

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

621

a to 19 workers, it stipulates review after five years giving them chance during this period for reallocation in conforming zones. Similarly, for industrial units with worker strength up to nine, it provides for review after 10 years after giving them chance during the said period for reallocation in the conforming zones. The suggestion of the Delhi Government is that all such industrial units which have come up after 1-1-1997 shall be directed to be closed in the first instance by giving them some time. In respect of industrial units which have come up between 1-8-1990 to 31-12-1996, it was suggested that the bigger units having more than 20 workers may first be directed to be closed, later the units having workers between 10 to 19 and last of all those units which have less than 10 workers be directed to be closed. The suggestion is that the shifting may be directed in a phased manner.

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d **61.** Mr Goburdhun also points out that after the advertisement for reallocation was issued in terms of the orders of this Court, about 51,000 applications were received, out of which approximately 24,000 applicants were held to be eligible. In Bawana Industrial Estate, 18,347 industrial plots are ready and allotment and possession has been given to 10,059 industrial units and remaining have still to take possession. It was further pointed out that nearly 6000 who are found eligible for allotment of industrial plots for relocation are on the waiting list awaiting the allotment of the industrial plots. In respect of these units, it was pointed out that development of industrial plot will take about two-and-a-half years.

e **62.** In respect of those not found eligible by the Government for reallocation and also those who did not apply pursuant to the advertisement, it was suggested that they be also given a chance to find out alternate industrial plots. In respect of the industrial units ('A' category) which may fall in extended category of 41 items, if the extension is not ultimately approved by the Government of India, they may also have to be phased out. According to the Delhi Government, about 20,000 units fall in this category and as the matter is pending with the Government of India, directions may be issued for early decision by the Government and in the meanwhile, these activities may not be directed to be closed.

f **63.** In short, it was not seriously questioned that for the present except those industrial units falling in Category 'A', 15,000 industrial units which fall in the category of *in situ* regularisation and 6000 which are on the waiting list, the rest of the industrial units have to close down.

g **64.** In respect of industrial activity in rural area/Lal Dora, learned counsel appearing for the Governments and various authorities did not dispute the submission of learned amicus curiae that except industry falling in Groups 'A' and 'A-1' of Category 'A', no other industrial activity was permissible. None made contra-submission or brought to our notice any provision permitting other industrial activity in the rural area/Lal Dora.

h **65.** At this juncture, we may also deal with, in brief, the submission urged on behalf of the Government of India that it is not the implementing agency. One has only to refer to Section 41 of the DD Act which empowers the Central Government to issue directions to DDA for the efficient administration of the DD Act. When no such direction was issued, there

622

SUPREME COURT CASES

(2004) 6 SCC

could be no answer. There is also no answer as to what steps were taken to consider the extension of Category 'A' list after adding to that category six more household industries in terms of notification dated 10-4-2001, despite lapse of three years. No answer came forth that when the matter of shifting of remaining 'F'-category units was deferred by the Delhi Government in January 2001 on the purported ground of the police force being preoccupied in making Republic Day arrangements and was dealing with the security angle, what made the Central Government not to take up the issue again with the Lt. Governor of Delhi after the Republic Day functions were over. In this regard, we may refer to a letter dated 8-1-2001 sent by the Lt. Governor of Delhi to the Minister of Urban Development, Government of India, stating that the operation for the closure of more polluting 'F'-category industrial units in non-conforming areas has been completed and for launching of fresh operation to close down the remaining 'F'-category units, the police force being preoccupied with making security arrangements for Republic Day function, fresh operation for closure of industrial units would be reviewed later. The later review has not seen the light of day despite expiry of more than three years. It is evident that, in the meanwhile, the Government of India, as already noticed above, has changed its stance and under the garb of issuing guidelines for the Master Plan for Delhi, 2021, action against violators of law has come to a standstill for an indefinite period.

66. Insofar as the Municipal Corporation of Delhi is concerned, we have already noticed its stand that non-conforming industrial units falling in Categories 'B' to 'F', whether polluting or not polluting which have come up in contravention of the master plan should not be permitted to operate and should be closed down. In this connection, reference can be made to a public notice issued by MCD informing the general public and owners/occupiers/operators of industrial units situated in non-conforming/residential areas that in compliance with the directions of this Court, the industrial activity in violation of the Master Plan of Delhi, 2001 be closed down immediately failing which the Municipal Corporation of Delhi shall forcibly close such units. All ad hoc licences granted, if any, shall stand revoked/cancelled. In respect of the industrial activity in Lal Dora, in the affidavit filed in October 2002 by the Chief Town Planner of the Municipal Corporation of Delhi it has been stated that the proposal for the withdrawal of exemption notification would be placed before the Corporation. Nothing seems to have been done in that direction. It is not disputed that under the garb of exemption notification dated 24-8-1963, all kinds of buildings have come up in Lal Dora.

67. Insofar as IA No. 1527 is concerned, it seems evident that the applicant, National Cable Industry, had undertaken to shift to the conforming area and on that ground obtained an order for removal of the seal from its premises so as to remove the machinery. The industrial unit was carrying on the activity which falls in Category 'F'. The premises are in rural area. The question whether the activity that was being carried on was polluting or not need not be examined since the application deserves to be dismissed firstly on the ground of suppression of material facts inasmuch as it has not been

M.C. MEHTA v. UNION OF INDIA (*Sabharwal, J.*)

623

mentioned therein that the applicant had given an undertaking that he would be shifting his unit to the NOIDA area and secondly, on the ground that the applicant cannot be permitted to resile from the undertaking. The applicant has already taken advantage of the undertaking and has removed the machinery. In this view, we need not go into the larger question as to which provisions of municipal laws will be applicable and which not to the rural areas or areas in Lal Dora. The aspect of industrial activity in these areas has already been dealt with. Under no circumstances, the applicant can be permitted to commence manufacturing activity from the premises in question.

68. The result of the aforesaid discussion is that except household industry, all other industrial units which have come up in residential/non-conforming areas in Delhi after 1-8-1990 have to stop functioning. Unfortunately, the governmental authorities have not lived up to the confidence that was reposed in them when the Court had stepped aside and left the matter to the Government in the year 1996, as noticed hereinbefore. On the other hand, in the year 2002 while these matters were pending, commercial use of industrial area was sought to be regularised by DDA on payment of some amounts. On an application filed by learned amicus curiae public notice to the above effect was stayed. Later it was withdrawn by the authority. The action not only was utterly illegal but also shows total non-application of mind. Thus, going by the past experience, it would also be necessary to not only monitor but also to fix responsibility so that illegal activity does not continue any further and stops within the time schedule for its cessation fixed in this order. We also wish to make it clear that those who have set up industrial units after 1-8-1990 have no right to allotment of a plot in an industrial area. This would, however, not debar the Government/authorities to allot to such oustees plots in industrial area but that under no circumstances should delay the closure process. Before we part, a word deserves to be said about Mr Ranjit Kumar, learned Senior Counsel who has assisted this Court as amicus curiae. Learned Senior Counsel has very effectively and ably assisted this Court both on facts and law. We place on record our deep appreciation for the able assistance rendered by Mr Ranjit Kumar.

69. In conclusion, having regard to the aforesaid, we issue the following directions:

1. All industrial units that have come up in residential/non-conforming areas in Delhi on or after 1-8-1990 shall close down and stop operating as per the following schedule:
 - (a) *Industrial units pertaining to extensive industries ('F' category)* — within a period of four months.
 - (b) *Industrial units pertaining to light and service industries (Categories 'B' to 'F')* — within five months.
 - (c) *Impermissible household industries (Category 'A')* — within six months.

624

SUPREME COURT CASES

(2004) 6 SCC

(d) 6000 industrial units on waiting list for allotment of industrial plots — within 18 months.

2. The Central Government is directed to finalise the list of permissible household industries falling in Category 'A' within a period of three months. a

3. 6000 industrial units on waiting list shall be allotted industrial plots within one year.

4. The Delhi Government may announce a policy within six weeks giving such incentives as it may deem fit and proper to those industrial units which came to be established after 1-8-1990 and may close down on their own before the expiry of the time fixed in this order. The non-announcement of incentives by the Government shall not, however, delay the closure process. b

5. The water and electricity connection of the industrial units found operating after the due date of closure shall be disconnected forthwith and in any case not later than a month of the date fixed for closure in Direction 1 above. If the industrial activity still continues, the premises shall be sealed within a period of not later than another one month. c

The seal shall be removed and water and electricity connection restored only after filing of an undertaking by the industrial unit not to recommence any sort of industrial activity before an officer nominated for the purpose by the Delhi State. d

6. The Central Government is directed to finalise within six months appropriate steps to be taken for making NCR region a success for industrial activity by removing the hurdles pointed out by the industry. The Governments of the adjoining States of U.P., Rajasthan and Haryana are directed to extend full cooperation. e

7. The Municipal Corporation of Delhi shall consider within three months the aspect of withdrawal of exemption notification as suggested in the affidavit of its town planner filed on 28-10-2002.

8. We appoint a Monitoring Committee comprising: (i) Chief Secretary of Delhi, (ii) Commissioner of Police, Delhi, (iii) Commissioner, Municipal Corporation of Delhi, and (iv) Vice-Chairman of the Delhi Development Authority. This Committee would be responsible for stoppage of illegal industrial activity. It would, however, be open to the aforesaid members of the Monitoring Committee to appoint responsible officers subordinate to them to oversee and ensure compliance with the directions contained in the judgment. f g

9. The first progress report by the Committee shall be filed by 31-8-2004 and thereafter it shall be filed, at least once in a period of every two months.

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Item Nos.01 to 07

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHIOriginal Application No. 56(T_{HC})/2013
(M.A. Nos. 582/2018, 1554/2018 & 1681/2018)

With

Original Application No. 57(T_{HC})/2013
(M.A. No. 391/2017)

With

Original Application No. 1027/2018
(Earlier O.A. No. 56/2013)

With

Original Application No. 726/2017
(M.A. Nos. 1382/2017 & 1691/2018)

With

Original Application No. 435/2016
(M.A. Nos. 1720/2018, 1722/2018 & 1723/2018)

With

Original Application No. 1029/2018
(Earlier O.A. No. 13/2017)

With

Executive Application No. 47/2018
(M.A. No. 1480/2018 in O.A. No. 453/2018)

With

Original Application No. 627/2018

Satish Kumar

Versus

Applicant(s)

Union of India & Ors.

Respondent(s)

With

Mahavir Singh

Versus

Applicant(s)

Union of India & Ors.

Respondent(s)

With

Satish Kumar

Versus

Applicant(s)

Union of India & Ors.

Respondent(s)

With

Chattar Singh Rachhoya

Versus

Applicant(s)

North Delhi Municipal Corporation & Ors.

Respondent(s)

With

N.S. Yadav & Ors.

Versus

Applicant(s)

Commissioner, North MCD & Ors.

Respondent(s)

With

Chanakya Place Residents Welfare Association Applicant(s)
Versus
Govt. of NCT of Delhi & Ors. Respondent(s)

With

Rajeev Kumar Applicant(s)
Versus
Central Pollution Control Board Respondent(s)

Date of hearing: 03.12.2018

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Original Application No. 56(T_{HC})/2013

For Applicant(s): Ms. K. Gayatri, Advocate with Mr. Satish Kumar
For Respondents (s): Mr. Biraja Mahapatra, Advocate with Mr. Dinesh Jindal, Law Officer for DPCC
Ms. Sakshi Popli, Advocate for NDMC
Mr. Rajiv Bansal, Senior Advocate with Mr. Kush Sharma, Prateek Gautam, Shubham Goel, Kamna, Advocates for DDA
Mr. Vikas Garg, Advocate for Delhi Police
Mr. Balendu Shekhar and Mr. Rajkumar Maurya, Advocates for North Delhi M.C.

Original Application No. 57(T_{HC})/2013

For Applicant(s): Mr. Rahul Choudhary, Gitanjali Sreedhar, Advocates
For Respondents (s): Mr. Biraja Mahapatra, Advocate with Mr. Dinesh Jindal, Law Officer for DPCC
Mr. Rajesh K. Singh, Rovins Verma, Advocates
Mr. Rajiv Bansal, Senior Advocate with Mr. Kush Sharma, Prateek Gautam, Shubham Goel, Kamna, Advocates for DDA

Original Application No. 726/2017

For Applicant(s): Mr. Chattar Singh Rachhoya, in person
For Respondents (s): Mr. Biraja Mahapatra, Advocate with Mr. Dinesh Jindal, Law Officer for DPCC
Ms. Puja Kalra, Advocate for NDMC
Mr. Balendu Shekhar and Mr. Rajkumar Maurya, Advocates for North Delhi M.C.
Mr. V. Shekhar, Senior Advocate with Ms. Anusuya Salwan, Ms. Shamskravish. Ram, Nikita Salwan, Advocates for DSIIDC

Original Application No. 435/2016

For Applicant(s): Mr. Alakh Alok Srivastava, Chandan Kumar Singh, Advocates
For Respondents (s): Mr. Ajay Jain, Rishabh Gupta, Advocates
Ms. Puja Kalra, Advocate for NDMC
Mr. Joseph Aristotle, Senior Advocate with Mrs. Priya Aristotle, Mr. Shiva Pandiyam, Advocates for impleading respondents (M.A. No. 1722,1723/2018)

Original Application No. 1029/2018

For Applicant(s):

For Respondents (s): Ms. Puja Kalra, Advocate for NDMC
Mr. Narender Pal Singh, Advocate for GNCTD with
Mr. Dinesh Jindal, Law Officer, DPCC
Sumeet Pushkarna, Devanshu, Advocates with
Pulkit Saigal, Z.E. for DJB

Execution Application No. 47/2018

For Applicant(s): Mr. Vikas Dahiya, Advocate with Mr. Rajeev Kumar,
complainant

For Respondents (s):

ORDER

1. We have perused the affidavit of the Chief Secretary, Delhi dated 30.11.2018 in pursuance of order dated 20.07.2018.
2. The issue for consideration is relating to compliance of judgment by Hon'ble Supreme Court in *M.C. Mehta vs. Union of India & Ors: (2004) 6 SCC 588, paragraph 54-57*, directing shifting/closing of industrial activities falling under category 'F' of the Master Plan of Delhi, 2001. Aggrieved by the inaction in that direction, petitions were filed in the Delhi High Court alleging unauthorized industrial activities which included handling of plastic and its illegal disposal by way of burning, etc.
3. The Tribunal dealt the matter by way of final order dated 12.12.2013 noting the extent of environmental degradation and havoc caused by plastic on the environment. Plastic clogs the natural cycles - both physico chemical as well as biological, if recklessly littered are injurious to the animals which devour it. There is temptation to dispose the plastic by burning which generates fumes containing toxic volatile emissions including greenhouse gases such as Methane and Carbon dioxide. Plastic combustion also generates airborne particulate emissions (soot) and solid residue ash (black carbonaceous material). Several studies have demonstrated that soot and solid residue ash poses high potential of causing significant health and environmental concerns. Soot so generated contains Volatile Organic Compounds (VOCs), semi-VOCs, smoke (particulate matter),

particulate bound heavy metals including Lead, Cadmium, Chromium and Copper, Polycyclic Aromatic Hydrocarbons (PAHs), Polychlorinated Dibenzofurans (PCDFs) and Dioxins, which have the ability to travel long distances, depending on prevailing atmospheric conditions before it drops back to earth and thus, enters into the food chain. Composition of by-products of plastic combustion with respect to its type and concentration depends on the combustion temperature and the flame residence time. A study of the combustion of Polyethylene (both Low and High Density Polyethylene) at different operating conditions detected more than 230 VOCs and semi-VOCs, especially Olefins, Paraffin, Aldehydes and light hydrocarbons including benzo(a)Pyrene and 1,3,5 Trimethylbenzene. Significant amount of pollutants of environmental and health concern including carcinogens such as PAHs, nitro-PAHs and Dioxins have been identified in the airborne particulate emissions. Further, these particulates have been found to be highly mutagenic. PAHs in the range of 8-340 ppm have been observed in the soot which is significant enough to cause cancer. Di-(2-ethylhexyl) phthalate (DEHP), one of the compounds among the plasticizers used in plastic manufacturing, has been described by US Environmental Protection Agency (USEPA) as a probable human carcinogen, a potential endocrine disruptor and is believed to be harmful by inhalation, generating possible health risks and irreversible effects.

4. Accordingly, directions were issued restraining the plastic waste dealers and other involved in the activity to comply with the requirements of statutory Rules - Plastic Waste (Management and Handling) Rules, 2011 (now replaced by 2016 Rules as amended in 2018). All the municipalities were also directed to enforce the Rules. Concerned authorities were required to work out a plan

for restoration of lands affected by illegal activities. Direction was also issued to identify the extent of area in use of plastic dealers, amount of plastic handled, amount of plastic unfit for re-cycle and any other relevant fact.

5. In spite of lapse of more than fourteen years after the order of the Hon'ble Supreme Court and more than four and a half year after the order of this Tribunal, when the matter was reviewed on 20.07.2018, the Tribunal found that unregulated handling of plastic continued to remain unabated. Orders of this Tribunal dated 12.12.2013, 24.12.2014, 24.02.2015, 06.12.2016, 10.01.2017 and 10.10.2017 remained on paper in absence of sincerity of the authorities who were expected to take steps in the matter. Illegal burning of plastic continued, shown by photographs produced before this Tribunal.
6. The Tribunal observed that Administration, Police Authorities and Municipal Authorities had only paid lip sympathy in this regard.
7. This Tribunal directed the Chief Secretary, Delhi to co-ordinate with the concerned authorities and ensure compliance of directions of this Tribunal at the ground level forthwith. Four months' time was given for doing so. The Chief Secretary, Delhi was also directed to indicate the persons accountable for their failure against whom appropriate penal action could be taken.
8. Unfortunately, the Chief Secretary, Delhi has failed to comply with the direction. We note that the present Chief Secretary has taken charge only on 27.11.2018 as stated in the affidavit. This could hardly be a justification for total failure of the institution of the Chief Secretary even if not of the present incumbent. Not even one name of the person against whom penal action or prosecution is proposed, has been indicated even after accepting serious failures in the matter. Good governance requires public

servants failing in their duties to be identified and made accountable.

9. The affidavit filed is evasive and mere a lip sympathy to the duty assigned under the binding orders of this Tribunal.
10. The minutes of the meeting dated 17.10.2018 annexed to the affidavit mention that large quantity of solid waste mainly consisting of plastic goods etc. were found lying and being handled without any unauthorized permission. Workers were found engaged in unhygienic/unhealthy conditions. Burnt material, including PVC cables/wires were seen. About 7000 MT of waste was lifted till now. Action of sealing the godowns was underway. According to the affidavit, 1152 Bighas of land is affected by plastic waste. Total fine of Rs. 85,000/- (Rupees Eighty Five Thousand only) has been imposed. 223 godowns have been sealed since September 2018. 550 plastic godowns have been vacated. Electricity connection of 82 godowns were disconnected. Challans have been issued (no number given) under Section 5/15 of Environment Protection Act, 1986 by the SDM (Punjabi Bagh). Demolition drive will be carried out by the SDM level Special Task Force.
11. From the statements in the compliance report filed by the Chief Secretary, Delhi that large scale environmental degradation was taking place, collusion and misconduct of the officers of the Delhi Government can be readily inferred. It is unfortunate that the Chief Secretary, Delhi has refused to identify the names of such officers. During the hearing, learned counsel for the applicants suggested that in view of high magnitude of damage to the environment, the Tribunal may require payment of compensation at the rate of Rs. 10 Crores per month from the date of its order i.e. 12.12.2013. However, we may consider compensation for future at this rate but for the past we assess the compensation to

be more than Rs. 25 crores. Strict directions are required to ensure compliance with the order in the interest of public health and rule of law with timelines and consequences for non-compliance.

12. Section 20 of the National Green Tribunal Act, 2010 provides for application of 'Polluter Pays' Principle in such circumstances. 'Polluter Pays' Principle demands that financial cost of preventing or remedying damage caused by pollution should be the liability of the polluter and for failure of Authority to take action, liability can be fastened on the Authority so that the victim and the environment can be protected and restored¹. This Tribunal has applied these principles in *inter-alia*, *Venkatesh & Ors. v. Union of India & Ors.*², *All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors.*³, *Court on its own Motion v. NCT, Delhi & Ors.*⁴. Inaction of the authorities in the present matter has aggravated the environmental degradation and caused loss of human health also. They have failed to remedy the situation inspite of repeated opportunities. This necessitates direction to recover environmental compensation.

13. Accordingly, we direct as follows:

- (i) As an interim measure, the Delhi Government will forthwith deposit a sum of Rs. 25 Crores towards the cost of damage to the environment with the Central Pollution Control Board for restoration of the damage within one month. For delay interest @ 12% p.a. will be payable.
- (ii) The Delhi Government will furnish a Performance Guarantee of Rs. 25 Crores within one month from today to carry out the direction of this Tribunal in its entirety

¹ Indian Council for Enviro Legal Action V. Union of India (1996) 3SCC 212

² O.A. No. 711 of 2018 dated 24.10.2018

³ E.A. No. 11 of 2017 dated 16.10.2018

⁴ Suo Motu Application No. 290 of 2017 dated 24.10.2018

within next three months and on such failure, the amount will be forfeited.

- (iii) The Chief Secretary must directly or through his nominee prepare a clear action plan for compliance of Rules and restoration identifying the name of the persons responsible to execute and responsible officer to supervise and the consequences for failures.
- (iv) In the compliance affidavit, beyond making a vague averment that challans have been issued under Section 5/15 of the Environment (Protection) Act, 1986, no details of such challans have been furnished. Such particulars may now be furnished and action initiated under the law against those responsible, including the officers of the Delhi Government.
- (v) The Delhi Government is at liberty to recover the cost of damage to the environment from its officers as well as from the polluters acting in violation of law.
- (vi) We expect monitoring at the highest level at least once in a fortnight.
- (vii) We further direct that on failure to comply this order, the Delhi Government will be required to deposit further amount of Rs. 10 crores per month till the order of this Tribunal is fully executed.
- (viii) Let an appropriate compliance affidavit be filed by the Chief Secretary, Delhi on or before 31.03.2019.
- (ix) We make it clear that any individual case of sealing/de-sealing may be dealt with by appropriate authorities in accordance with law consistent with the orders of this Tribunal.

14. Monitoring of waste burning incidents should be stopped and be watched at ward level and may be by using aerial devices (like

drones with due permissions) and satellite imageries and the fire be extinguished at once. Complaints filed by citizens on mobile applications of Delhi Government/Central Pollution Control Board/Delhi Pollution Control Committee should be attended immediately and for this purpose, special teams be constituted (like fire brigades).

15. List for consideration on 10.04.2019.

M.A. No. 1691/2018 & 1722/2018:

The applications are dismissed.



Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

December 03, 2018

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Corrected copy

Item No.03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 601/2018

Mayank Manohar & Paras Singh,
Reporter Times of India

Applicant(s)

Versus

Govt. of NCT of Delhi & Ors.

Respondent(s)

Date of hearing: 24.01.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):

For Respondent (s):

Mr. Rajkumar, Advocate for Central
Pollution Control Board

ORDER

1. The present matter is an offshoot of directions of the Hon'ble Supreme Court in *M.C Mehta v. Union of India & Ors (2004) 6 SCC 588* to close down industries illegally operating in residential areas in violation of Master Plan of Delhi, 2021.
2. The Hon'ble Supreme Court observed that non taking of action by the Government amounts to indirectly permitting the unauthorized use which amounts to the amendment of the Master Plan without following due procedure.¹ The plea of permitting regularization of certain industries in residential areas was disallowed on the ground that the same will be against the Master Plan and will render the concept of planning as well as the concept of NCR non-functional

¹ M.C Mehta v. UoI (2004) 6 SCC 588 ¶48

and in-operative. The Hon'ble Supreme Court passed the following directions in the judgment dated 07.05.2004:

“ 68. *All Industrial Units that have come up in Residential/non-conforming areas in Delhi on or after 1st August, 1990 shall close down and stop operating as per the following schedule:*

(a) Industrial Units pertaining to extensive industries ('F' category) within a period of four months.

(b) Industrial Units pertaining to light and service industries (category 'B' to 'F') within five months.

(c) Impermissible household industries (category 'A') within six months.

(d) 6, 000 industrial units on waiting list for allotment of industrial plots within 18 months.

A Monitoring Committee comprising (i) Chief Secretary of Delhi (ii) Commissioner of Police, Delhi (iii) Commissioner, Municipal Corporation of Delhi and, (iv) Vice-Chairman of Delhi Development Authority was appointed to be responsible for stoppage of illegal industrial activity and to oversee and ensure compliance of the directions contained in the judgment.

3. The present matter is third in the series of the same subject. Earlier two orders of this Tribunal are:

(i) *All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors.*²

(ii) *Satish Kumar v. Union of India & Ors.*³

4. In *Execution Application No.11/2017 in O.A. No.159/2013, All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors.*, the issue arose

² Execution Application No.11/2017 in O.A. No.159/2013, order dated 16.10.2018

³ Original Application No. 56(THC)/2013, order dated 03.12.2018

on account of failure of the Delhi Government and its authorities from carrying out the directions of the Hon'ble Supreme Court in *M.C Mehta (supra)* and thereby continuing stainless steel pickling industries covered in prohibited/negative list of industries as per Master Plan of Delhi, 2021. Since inspite of several orders of this Tribunal, the polluting activities continued with harmful effect on health and aquatic life and degrading the environment, direction was issued vide order dated 16.10.2018 to forthwith stop all these industries and Delhi Government was held liable to pay a sum of Rs. 50 Crores as compensation for damage to the environment to be spent for restoration of environment. Liberty was given to recover the amount from erring industries/officers.

5. In *Original Application No. 56(THC)/2013, Satish Kumar v. Union of India & Ors.*, the question was failure of Delhi Government and its authorities in shifting/closing industrial activities falling under category 'F' of Master Plan of Delhi, 2021. This was resulting in serious air pollution and health hazard for the inhabitants. Plastic waste dealers were burning plastic for which no action was being taken. After noticing the facts and circumstances which were available on record, while directing action plan for compliance of law vide order dated 3.12.2018, Delhi Government was held liable to deposit a sum of Rs. 25 Crores towards the cost of damage to the environment and to furnish performance guarantee of Rs. 25 Crores to ensure that the direction of this Tribunal was carried out in next three months.

6. In the same series, the issue of 51,837 factories operating in residential areas in violation of Master Plan of Delhi, 2021 and compliance of judgment of Hon'ble Supreme Court of India in *M.C Mehta (supra)* is the subject matter of the newspaper report dated 20.08.2018 in the Times of India under the heading: "These 51,837 factories shouldn't even be there". It is on the basis of this news item that the present proceedings have been initiated.
7. According to the said report, number of such factories is 51,837 as per record of the Delhi State Industrial and Infrastructure Development Corporation (DSIIDC). Such illegal activity is resulting in creating water pollution, dust, industrial and vehicular emissions.
8. The factories deal with dyes, chemicals, rubber, asbestos, plastics, electrical, auto spare parts, iron smelting and fluorescent lights etc. Industrial effluents are directly discharged into the drains and the air.
9. A relocation schedule was prepared by the Industries Department, Government of Delhi. The factories which are in the non-conforming areas were directed to be closed by the Hon'ble Supreme Court of India in *M.C. Mehta v. Union of India & Ors.*⁴ The analysis of the data released by DSIIDC shows most violations are in Moti Nagar, Kirti Nagar, Ramesh Nagar, Jangpura, Najafgarh and Mansarovar Garden, all in West Delhi; Bhogal, Ashram, Mahipalpur, Maharani Bagh and Jangpura in South Delhi; Gandhi Nagar, Jheel, Shastri Nagar, Kailash Nagar, Jafrabad and Shahdara in East Delhi; and Sadar Bazar, Chandni Chowk, Malkaganj, Ballimaran, Lal Kuan and Kashmere Gate in North Delhi. Other highly affected areas are Karol Bagh, Patel Nagar, Anand Parbat, Rohtak Road, Rajinder Nagar, Old

⁴(2004)6 SCC 588

Rajinder Nagar in Central Delhi, Shahdara, GT Road, Babarpur and Vishwas Nagar in North East Delhi, and Burari and Jagatpuri, in North West Delhi.

10. An NGO 'Toxics Link' has identified 18 hotspots in Delhi, including Samaypur, Badli, Okhla, Ghazipur, Mayapuri, Moti Nagar, Yamuna Vihar, Gokulpuri, Shastri Park and Wazirpur.
11. The Municipal Corporations have only listed 32,541 illegal factories in areas under their jurisdiction - 11,805 under the East Delhi Municipal Corporation, 11,214 under the North Body, and 10,023 in the South. East Delhi Municipal Corporation has so far verified 2,251 units and reported that 1,145 of these were found to have shut down.
12. Categories of harmful industries and hotspots where they are located are mentioned by way of a chart in the report as follows:

Categories of Harmful Industries

“

Which units are harming you the most		
Chemical	High	Impacts ● Water pollution due to discharge of effluent into drains ● Air Pollution ● Noise Pollution ● Toxin cause Skin ailments, allergies, infection ● Security threat, fires.
Rubber	High	
Electroplating	High	
Asbestos	High	
Electrical Spare Parts	High	
CFL	High	
Dyes (Depending on the kind of dyes used)	Medium to high	
Metal	Medium	
Plastic	Low	
Wires		
Auto spare parts	Low	
Iron smelting	Low	
Plastic	Low	

”

Hotspots

“

Hotspots where major polluting industries are operational, as identified by NGO Toxic Links	
Samaypur, Badli, Libaspur	Dying
Ranhola Village, Najafgarh	Dying
Moti Nagar	CFL

”

Mandoli	Lead Acid battery
Anand Parbat	Furnace operation
Wazirpur	Pickling
Mayapuri	E-waste, metal scrape, automobile scrap
Mustafabaad	E-waste, Cathode Ray Tube (CRT)
Yamuna Vihar, Gokulpuri,	E-waste, Cathode Ray Tube (CRT)
Shastri Park	E-Waste, Cathode Ray Tube (CRT)
Old Seelampur	Cathode Ray Tube (CRT), Dyeing, e-waste
Bhalswa	Landfill
Ghazipur	Landfill
Okhla	Landfill

13. Finding the issue in the newspaper report to be a substantial question of environment, this Tribunal directed constitution of a two members Committee by the Central Pollution Control Board. North Delhi Municipal Corporation (NDMC), South Delhi Municipal Corporation (SDMC), DSIIDC and Delhi Development Authority (DDA) were directed to provide cooperation.

14. The Committee was to furnish its report to the Tribunal as also to the Committee constituted by the Tribunal in *Manoj Mishra v. Union of India & Ors.*⁵ to look into the issue of pollution of river Yamuna, comprising Ms. Shailaja Chandra, former Chief Secretary of Delhi and Shri B.S. Sajwan, former Expert Member of this Tribunal.

15. Accordingly, report dated 15.12.2018 of the two member Committee comprising of Dr. R. S. Mahawar, Ex-Additional Director, CPCB and Shr. B. K. Jain, Additional Commissioner (Planning), Delhi

⁵O.A. No. 06/2012, Order dated 26.07.2018

Development Authority (Retd.) has been filed in the course of hearing by learned counsel for CPCB.

16. The Committee compiled the list of industries in non-conforming/residential areas against the provisions of the Master Plan of Delhi, 2021. The Committee identified 99 types of manufacturing/processing industries which are not permitted as per MPD 2021. The Committee also identified no industrial activity zone and the residential use zones. The Committee also referred to the meeting held in the office of Commissioner of Industries, NCT Delhi for effective implementation of order of the Hon'ble Supreme Court in *M.C Mehta (supra)* for closure of unauthorized industrial activities in Delhi in residential/non-conforming areas on 22.11.2010. Reference is also made to the 48th Report of the Monitoring Committee filed before the Hon'ble Supreme Court in *W.P.C No. 4677 in M.C Mehta v. UOI*. Reference has also been made to the meeting held in the office of Chief Secretary on 13.09.2018 for review of the progress in the matter. The meeting was attended by Vice Chairman, DDA, Commissioners East, North and South DMCs and Commissioner of Police.

17. The conclusions in the report are as follows:-

1. *Out of the total 51,837 applicant industries, effective allotment have been made to 21, 960 industrial units. The remaining 29,877 include the industries which were found not eligible (23,852) and the industries which have been declared as defaulters (6025) for various other reasons. The DSIIDC should prepare zone wise lists of the 29,877 industries and send the lists to the concerned Municipal Corporations for ensuring their closure.*
2. *The DSIIDC should also prepare zone wise lists of the 21,960 units (i.e. the allottees) and send the lists to the concerned Municipal Corporations. These industries should be visited by the Municipal Corporations and those found in operation at their previous should be closed.*
3. *The details of the 15,888 industries which have been closed by the Municipal Corporations of Delhi as of August 2018 need to be reviewed to confirm their being part of the above mentioned 29,877 industries that are to be closed.*
4. *The MPD-2012 has identified 22 industrial clusters for redevelopment for accommodating non-conforming units in these area. The Section 7.6.2.1 of the MPD-2021 has also*

laid norms for redevelopment of these clusters. The time targets for the redevelopment of these areas should be fixed.

5. *The industries presently operating in the 22 industrial clusters identified for redevelopment and are otherwise conforming to the MPD-2021 may be permitted to continue subject to complying of these industries to the applicable environment and other requirements.*
6. *The boundary limits of the 22 industrial clusters need to be fixed(if not done yet) by the Delhi Development Authority/Local bodies to stop further indiscriminate expansion of these areas.*
7. *The Village Prahladpur, Bangar mentioned in the Hon'ble National Green Tribunal order dated 08.10.2018 is included in the list of 22 unplanned industrial areas identified for redevelopment (Section 7.6.2 of the MPD-2021. The Section 7.6.2.1(Vii) of the MPD-2021 provide as under:*

“The redevelopment work may be undertaken by the societies voluntarily or by the concerned local body/ agencies. In case the agencies take up the redevelopment work for execution, they shall collect the charges from the individual industries themselves directly. Requisite charges for change in the land use, enhanced FAR and land (wherever applicable) would be required to be paid to the concerned Authority.

The redevelopment shall be completed within the period specified by the Delhi Development Authority, Local Bodies in this regard. Clusters, which fail to complete the redevelopment proposals within the period specified as above, shall have to shift to other conforming industrial areas and the units functioning in non-conforming clusters shall have to close down. In such cases, the licensing authority will not renew/ issue the licenses to industrial units without obtaining land use clearance from the competent authority. Further, no new licenses will be issue in non-conforming areas, without obtaining land use clearance.”

The action in regard to the industries in Prahladpur, Bangar may therefore be taken as per the recommendations made at (4) and (5).”

18. We have perused and considered the report. The Report shows that 29,877 industries were not eligible for allotment and were liable to be closed. 21,960 industrial units were given allotments but compliance of conditions of allotment was required to be verified. Industries could be allowed to be operate in 22 industrial clusters. Boundaries of such clusters are required to be fixed.
19. The report is based on updated facts as on 15.12.2018 and shows that inspite of monitoring by the Hon'ble Supreme Court, illegal operation of industries is continuing. It is also clear that if this

Tribunal does not act, the illegal operation of industrial activities will continue to have adverse impact on environment.

20. Though earlier orders dated 16.10.2018 in E.A No. 11/2017 and 3.12.2018 in O.A No. 56(THC)/2013 cover operation of pickling industries in Wazirpur, SNA and Badhi industrial area and unscientific plastic burning and handling in Nangloi area respectively, the said orders do not specifically cover the present polluting activities.

21. The report is based on record. We do not find any reason not to accept the report and the recommendations. Accordingly, the same are accepted and we direct that the same be acted upon in accordance with law for improvements, compliance of air and water quality standards in Delhi. The concerned authorities i.e. Delhi Government, DPCC, DDA and the Municipal Corporation may take necessary steps in exercise of their statutory powers to ensure compliance of the norms at the earliest. In view of the fact, the subject matter is covered by the judgment of the Hon'ble Supreme Court in *M.C Mehta (supra)* and the same issue has already been dealt with in two orders of this Tribunal in *Execution Application No.11/2017 in O.A. No.159/2013, All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors. and Original Application No. 56(THC)/2013, Satish Kumar v. Union of India & Ors.*, further hearing of Delhi Government, DPCC, DDA and Municipal Corporations appears to be futile exercise and will only delay preventive and remedial actions required to be immediately taken. The said authorities are in any case bound to comply with the directions of Hon'ble Supreme Court in *M.C Mehta (Supra)* and also to uphold the

environmental norms by complying with the recommendations of the Committee constituted by the CPCB.

22. The report shows failure of the statutory authorities – Delhi Pollution Control Committee (DPCC), Municipal Corporations, Delhi Development Authority and the Delhi Administration. The Committee has found not only violation of Master Plan of Delhi (MPD) 2021 but also violation of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution), Act, 1981, Hazardous Waste Rules, 2016, Solid Waste Management Rules, 2016, Plastic Waste Management Rules, 2016.
23. DPCC appears to have failed to exercise its powers under the Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 of closing polluting activities, of prosecuting polluters and of recovering compensation from them for damage to the environment. DDA and Municipal Corporations have also not performed their duties respectively under the Delhi Development Act, 1957 and Municipal Corporation Act, 1957.⁶
24. Even after fifteen years of the judgment of the Hon'ble Supreme Court the observation in paragraph 21 of the judgment that industries are illegally operating in non-confirming areas remains true.
25. We have adverted to the inadequacy of environment regulatory mechanism in general and need for its revamp for meaningful

⁶ See ¶ 20-21, 37-40, *supra* note 1

environment protection and required the State machinery to be made accountable for its failure.⁷

26. We have also noted unsatisfactory state of environment threatening lives and causing deaths and diseases.⁸

27. Thus, it is necessary to take prompt measures to prevent further damage to the environment and to uphold the rule of law in the manner suggested by the two member Committee. This may require exercise of statutory power to prohibit polluting activity, initiate prosecution, and recover cost of damage to the environment. Let these steps be taken by the statutory authorities in accordance with law.

28. Our responsibility does not end with mere passing of this order. It is enforcement of the order which is of equal significance.

29. Leaving execution of the order to the authorities without constant supervision by an independent mechanism does not appear to be

⁷(a) Aryavart Foundation vs. M/s. Vapi Green Enviro Ltd. & Ors., O.A. No. 95/2018, order dated 11.01.2019: wherein this Tribunal noted inadequate performance of PCBs and directed for their performance audit.

(b) Compliance of Municipal Solid Waste Rules 2016, O.A. No. 606/2018, order dated 31.08.2018 – wherein this Tribunal has constituted State-wise Committees to ensure effective implementation of SWM Rules, 2016

(c) Threat to life arising out of coal mining in south Garo Hills district Vs. State of Meghalaya & Ors., O.A. No. 110 (THC)/2012, order dated 04.01.2019- wherein this Tribunal laid down that state authorities colluding with polluters are equally liable to pay environmental compensation

(d) News item Published in 'The Hindu' authored by Shri. Jacob Koshy Titled "More river stretches are now critically polluted: CPCB", O.A. No. 673/2018, order dated 20.09.2018- wherein this Tribunal constituted River Rejuvenation Committees to prepare and execute Action Plan in time bound manner for rejuvenation of polluted river stretches: wherein this Tribunal dealt with the issue of compliance of judgement in M.C Mehta v. UoI (2004) 6 SCC 588 directing shifting of industries. The Tribunal again noting inaction of concerned authorities imposed environmental compensation and directed preparation of Action Plan for compliance of PWM Rules.

(e) Sobha Singh & Ors. Vs. State of Punjab & Ors., O.A. No. 10/2014, order dated 24.07.2018; wherein this Tribunal while noting contamination to water bodies at Bengaluru-Bellanduru lake and inaction of concerned authorities directed them to pay compensation for degradation to environment.

(f) Court on its own Motion Vs. State of Karnataka & Ors., O.A. No. 125/2017, order dated 06.12.2018

⁸ Ibid. (a) and (b) wherein this Tribunal has placed reliance of the following studies to reflect the degradation of environment- https://niti.gov.in/writereaddata/files/new_initiatives/presentation-on-CWMI.pdf India ranks 120th in 122 countries in Water Quality Index as per Niti Ayog Report, <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece> Most pollution-linked deaths occur in India, <https://www.hindustantimes.com/india-news/delhi-world-s-most-polluted-city-mumbai-worse-than-beijing-who/story-m4JFT063r7x4Ti8ZbHF7mM.html> Delhi's most polluted city, Mumbai worsen than Beijing as per WHO; http://www.un.org/waterforlifedecade/pdf/global_drinking_water_quality_index.pdf WHO Water Quality Index.

serving the purpose (in light of recent outcome in the aforementioned matters). Circumstances call for stern approach to save health of present and future generations, endangered by threat to environment, as observed by the Hon'ble Supreme Court in *M.C. Mehta, supra*.

30. Constitution of a credible mechanism for overseeing compliance of the order and the rule of law is necessary. Though we had initially directed the report to be looked into by the Committee constituted by this Tribunal to deal with the pollution of river Yamuna, having regard to the magnitude of the work involved in the present case and the massive work already being undertaken by the Committee dealing with pollution of river Yamuna, an independent oversight committee is required for the present case.

31. We direct the constitution of an Oversight Committee to be headed by Justice Pratibha Rani, former Judge of Delhi High Court having representatives from CPCB, DSIIDC, DPCC, DDA and the concerned District Magistrates and the Municipal Corporations. We are also of the view that action taken on the subject matter of two earlier orders of this Tribunal intended to give effect to directions of the Hon'ble Supreme Court in *M.C Mehta (supra)* viz. order dated 16.10.2018 in *Execution Application No.11/2017 in O.A. No.159/2013, All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors.* and order dated 3.12.2018 in *Original Application No. 56(THC)/2013, Satish Kumar v. Union of India & Ors.* should also be subjected to review by this Oversight Committee. The statutory authorities, particularly, DDA, DPCC, DSIIDC, and the Municipal Corporations must, for this purpose, nominate officers of high integrity, competence and seniority and who can devote time in the work by being spared of other responsibilities within ten days.

32. The Central Pollution Control Board may furnish the report to the said Oversight Committee. The DPCC will be the nodal agency to coordinate.
33. The Mandate of the Committee will be to take stock of the extent of violation of law and to prepare a time bound action plan to deal with the problem in such phases as may be determined. The Committee may have a framework for implementation by adopting a comprehensive, integrated and inclusive strategy, with measurable indicators of progress and success. The statutory authorities may report their progress to the Committee.
34. The Committee may have its website for receiving and disseminating information not only for the public involvement and awareness but also for providing inputs about the functioning of industries in illegal manner in non-conforming areas/residential areas. The Committee may inspect the hotspots and other sites for which Delhi Police may provide the security, if necessary. The Committee will be at liberty to initiate Information, Education and Communication (IEC) programme by involving educational, religious or social organizations or any other sections of the community, as may be found to be viable.
35. The Committee may have the target of abating the air and water pollution by overseeing closing of the industries operating illegally, in violation of environmental norms or taking such other necessary measures.
36. The Committee may also make a realistic assessment of the compensation for the damage to the environment already caused and

the cost of reversing the degradation and the persons or authorities from whom the same is to be recovered.

37. The Committee will work in tandem with any other Committee already dealing with the subject. All concerned authorities will cooperate and coordinate with the Committee. The Central Pollution Control Board will provide such technical assistance as may be necessary.
38. The DPCC and the Delhi Government will provide suitable place for working of the Committee and all other facilities as may be necessary for its effective working. The honorarium to be paid to the former Judge of Delhi High Court will be equal to the basic pay of the post held by the incumbent, consistent with the earlier orders dated 19.09.2018 and 15.11.2018 in *Amresh Singh v. Union of India &Ors.*⁹
39. The Committee may assume its charge within three weeks. Accountability for making the Committee functional will be of the Chief Secretary, Delhi and the Chairman, Delhi Pollution Control Committee. The Committee may furnish its action taken reports to this Tribunal at least quarterly and also at such other intervals as may be found necessary. The Chief Secretary Delhi may indicate progress during personal hearing before this Tribunal on 11.03.2019 in O.A. No. 606/2018.
40. Let first Report of the Committee be furnished to this Tribunal by e-mail at ngt.filing@gmail.com by 15.05.2019.
41. The application is disposed of.

⁹E.A. No.32/2016

42. First report received from the Committee may be put up for consideration on 27.05.2019. *Execution Application No.11/2017 in O.A. No.159/2013, All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors. and Original Application No. 56(THC)/2013, Satish Kumar v. Union of India & Ors* may also be listed on that day instead of the dates earlier scheduled in the said orders i.e. 10.04.2019 and 25.03.2019 respectively.

43. A copy of this order be sent to Chief Secretary, Delhi, DPCC, DSIIDC, DDA, all the District Magistrates and Municipal Corporations of Delhi.

44. Registry to place a copy of this order in the respective files of *Execution Application No.11/2017 in O.A. No.159/2013, All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors. and Original Application No. 56(THC)/2013, Satish Kumar v. Union of India & Ors.*

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 24, 2019
Original Application No. 601/2018
AK

Item Nos. 01 to 08

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 56(THC)/2013

Satish Kumar Applicant
Versus

Union of India & Ors. Respondent(s)
WITH

Original Application No. 57(THC)/2013

Mahavir Singh Applicant
Versus

Union of India & Ors. Respondent(s)
WITH

Original Application No. 1027/2018
(Earlier O.A. No. 56/2013)

Satish Kumar Applicant
Versus

Union of India & Ors. Respondent(s)
WITH

Original Application No. 726/2017

Chattar Singh Rachhoya Applicant
Versus

North Delhi Municipal Corporation & Ors. Respondent(s)

WITH
Original Application No. 435/2016
(M.A. No. 1720/2018)

N. S. Yadav & Ors. Applicant(s)
Versus

Commissioner, North MCD & Ors Respondent(s)

WITH
Original Application No. 1029/2018
(Earlier O. A. No. 13/2017)

Chanakya Place Residents Welfare Association Applicant
Versus

Govt. of NCT of Delhi & Ors. Respondent(s)
WITH

Execution Application No. 47/2018
IN

O. A. No. 453/2018

Rajeev Kumar Applicant

Versus

Central Pollution Control Board & Ors. Respondent(s)

WITH

Original Application No. 601/2018

In the matter of news articles by Mayank Manohar & Paras Singh,
Reporter Times of India Applicant

Versus

Govt. of NCT of Delhi & Ors. Respondent(s)

Date of hearing: 10.12.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Rahul Choudhary, Advocate in OA 56/2013
Ms. Kanika Sood, Advocate in OA 57/2013

For Respondent(s): Ms. Jyoti Mendiratta, Advocate for GNCTD
Mr. Rahul Khurana, Advocate for State of Haryana
Mr. Raj Kumar, Advocate for CPCB
Mr. Sanjay Poddar, Senior Advocate with Ms. Puja
Kalra Advocate, for SDMC & North DMC
Mr. Balendu Shekhar, Advocate for NDMC & EDMC
Mr. Narender Pal Singh, Advocate for DPCC
Mr. Kush Sharma, Advocate for DDA
Ms. Shamsravish Rein, Advocate for DSIIDC

ORDER

1. Proceedings in these matters are offshoot of directions of the Hon'ble Supreme Court in *M.C Mehta Vs. Union of India & Ors. (2004) 6 SCC 588*, for shifting/closing of industrial activities falling under category 'F' of the Master Plan of Delhi, 2001. Aggrieved by the inaction of the authorities on the subject, some petitions were filed in the Delhi High Court alleging that unauthorized industrial activities, which

included unscientific handling of plastic and its illegal disposal by way of burning, etc. were continuing. The proceedings were transferred to this Tribunal. Thereafter, more cases were directly filed before this Tribunal. There were also allegations of burning of plastic in violation of environmental norms.

2. We may briefly mention the subject matter of eight matters which will stand covered by this common order.

First two matters being OA No. 56(THC)/2013, *Satish Kumar vs. Union of India & Ors.* and OA No. 57(THC)/2013, *Mahavir Singh vs. Union of India & Ors.*, arise out of two writ petitions filed before the Delhi High Court against burning of plastic etc. by industrial units working illegally in non-conforming areas at Mundka, Nangloi and other adjoining areas in outer Delhi. After transfer of the writ petitions to this Tribunal, the Tribunal issued directions for scientific management of plastic waste. The Tribunal directed the Chief Secretary, Delhi to coordinate with the concerned authorities by holding a joint meeting. After referring to the judgment of the Hon'ble Supreme Court in *M.C. Mehta (supra)*, direction was also issued to shift/close illegal industrial activities operating in non-conforming areas. OA No. 1027/2018 was separately registered after OA Nos. 56(THC) and 57(THC) of 2013 were technically disposed of but kept pending for considering the report.

OA No. 726/2017, *Chattar Singh Rachhoya vs. North Delhi Municipal Corporation & Ors.* was filed against hazardous activities by industrial units in non-conforming area. The said matter was directed to be tagged to OA Nos. 56(THC) and 57(THC) of 2013, after issuing directions, vide order dated 28.09.2018, for remedial action against the illegally polluting activities.

OA No. 435/2016, *N.S. Yadav & Ors. vs. Commissioner, North MCD & Ors.* is in respect of grievance against illegal denting, and painting and other activities in non-conforming areas. On 04.10.2018, after issuing directions for remedial action, the said matter was also directed to be tagged to OA No. 56(THC) of 2013.

In OA No. 13/2017, *Chanakya Place Residents Welfare Association vs. Govt. of NCT of Delhi & Ors.*, the grievance was against operation of polluting factories in non-conforming/residential areas. Vide order dated 11.10.2018, the matter was tagged to OA No. 726/2017 and OA No. 435/2016.

Execution Application No. 47/2018, *Rajeev Kumar vs. Central Pollution Control Board & Ors.* was filed for enforcement of earlier order of this Tribunal dated 20.07.2018, disposing of the application in terms of orders passed in OA No. 56(THC) of 2013.

OA No. 601/2018, *Mayank Manohar & Paras Singh, Reporter Times of India vs. Govt. of NCT of Delhi & Ors.* was on the basis of a news item dated 20.08.2018 that there are 51,837 factories operating illegally, in non-conforming areas.

3. In all the matters, the Tribunal directed the Chief Secretary, Delhi, who was to head the Committee for enforcement of the Hon'ble Supreme Court judgment, to take realistic action and to appear in person. The Chief Secretary appeared in person on 05.08.2019 and filed an action plan giving the schedule of the planned action. Thereafter, on 19.11.2019, again the Chief Secretary was present in person and after interaction with the Chief Secretary, further orders were passed. We may also note that in view of inadequacy of the compliance for a long time, the Tribunal also constituted an Oversight Committee (OC), vide order dated 24.01.2019 in OA 601/2018, to prepare a time bound action plan

to deal with the problem. The OC gave its report which was considered vide order dated 19.11.2019 and final report of the OC was further considered on 20.03.2020.

4. After above brief description of the matters, we may refer to some of the significant orders passed.

5. Order of this Tribunal dated 19.11.2019 sums up earlier proceedings as follows:-

“2. The Tribunal dealt the matter by way of final order dated 12.12.2013 noting that environmental degradation and havoc was being caused by unscientific handling of plastic on the environment. Plastic clogs the natural cycles - both physico-chemical as well as biological. Recklessly littered plastic was injurious even to the animals which devour it. There is temptation to dispose the plastic by burning which generates fumes containing toxic volatile emissions. Plastic combustion also generates airborne particulate emissions (soot) and solid residue ash (black carbonaceous material). It was observed that several studies have demonstrated that soot and solid residue ash poses high potential of significant health and environmental concerns. Soot so generated contains Volatile Organic Compounds (VOCs), semi-VOCs, smoke (particulate matter), particulate bound heavy metals including Lead, Cadmium, Chromium and Copper, Polycyclic Aromatic Hydrocarbons (PAHs), Polychlorinated Dibenzofurans (PCDFs) and Dioxins, which have the ability to travel long distances, depending on prevailing atmospheric conditions before it drops back to earth and thus, enters into the food chain. Composition of by-products of plastic combustion with respect to its type and concentration depends on the combustion temperature and the flame residence time. A study of the combustion of Polyethylene (both Low and High Density Polyethylene) at different operating conditions detected more than 230 VOCs and semi-VOCs, especially Olefins, Paraffin, Aldehydes and light hydrocarbons including benzo(a)Pyrene and 1,3,5 Trimethyl benzene. Significant amount of pollutants of environmental and health concern including carcinogens such as PAHs, nitro-PAHs and Dioxins have been identified in the airborne particulate emissions. Further, these particulates have been found to be highly mutagenic. PAHs in the range of 8-340 ppm have been observed in the soot which is significant enough to cause cancer. Di-(2-ethylehexyl) phthalate (DEHP), one of the compounds among the plasticizers used in plastic manufacturing, has been described by US Environmental Protection Agency (USEPA) as a probable human carcinogen, a potential endocrine disruptor and is believed to be harmful by inhalation, generating possible health risks and irreversible effects. The Tribunal directed the authorities to perform their statutory duty and deal with the matter.

3. In spite of lapse of more than fourteen years after the order of the Hon'ble Supreme Court and more than four and a half year after the order of this Tribunal, when the matter was reviewed on 20.07.2018, the Tribunal found that unregulated handling of plastic continued unabated. Orders of this Tribunal dated 12.12.2013, 24.12.2014, 24.02.2015, 06.12.2016, 10.01.2017 and 10.10.2017 remained on paper in absence of sincerity of the authorities who were expected to take steps in the matter. Illegal burning of plastic continued, shown by photographs produced before this Tribunal.

4. This Tribunal directed the Chief Secretary, Delhi to coordinate with the concerned authorities and ensure compliance of directions of this Tribunal at the ground level forthwith. Four months' time was given for doing so. The Chief Secretary, Delhi was also directed to indicate the persons accountable for their failure against whom appropriate penal action could be taken.

5. The matter was thereafter reviewed on 03.12.2018 in the light of the above background. It was again noted that in violation of order of the Hon'ble Supreme Court passed more than 14 years ago, unregulated handling of plastic including burning thereof was continuing to imperil the health of the citizens and the environment. The report from authorities placed on record itself showed carrying on of illegal activities and creation of unhygienic/unhealthy conditions. It was noted that large scale degradation of environment was taking place. The Tribunal directed the Government of Delhi to deposit a sum of Rs. 25 Crores towards cost of damage to the environment and furnish performance guarantee in the like amount with the CPCB. It was further directed that if the failure continues, the Delhi Government will be liable to pay a further amount of Rs. 10 Crore per month as a coercive measure for compliance of the order of this Tribunal. The amount is to be spent on restoration of the environment.

6. Again, vide order dated 18.07.2019, the Tribunal found that action taken against identified polluters was inadequate and gave last opportunity to Delhi Government to take necessary steps in the matter and file further compliance report giving details of action taken month-wise. The Chief Secretary was required to remain present in person.

7. The matter was thereafter further considered on 05.08.2019 in the presence of the Chief Secretary and in the light of compliance affidavit filed on 02.08.2019 by the Delhi Government as follows:-

"7. Accordingly, the Chief Secretary is present in person and compliance affidavit has been filed on 02.08.2019 by the Special Secretary (Environment) and Member Secretary, DPCC stating that an action plan has been prepared and has been executed. Regular monitoring was being done at the level of Chief Secretary. Month-wise action taken is mentioned as follows:-

“(i) November and December, 2018 – Joint Inspection teams consisting officers from West Zone, South DMC, DPCC and Delhi Police carried out door to door survey in the areas of Chanakya Place and Sitapuri. A total of 624 industrial units were found operating.

(ii) May, 2019 – Out of the 624 industrial units, 03 units have been identified being polluting in nature (Orange category). DPCC has got sealed/closed down all these polluting units. Simultaneously Environmental Compensation has been imposed on these 03 units.

(iii) June, 2019 – the 03 polluting units (micro units were sealed, their electricity connections were disconnected for ensuring effective closure. Three units have deposited the Environmental Compensation imposed upon them.

(iv) July, 2019 – West Zone, South DMC has carried out publicity in the area that those who are eligible under the household category are required to obtain the license under the policy and those who are not eligible for license under the household category and also those units who do not apply for license will be closed w.e.f. 01.08.2019. Camps were also organized for facilitating applying for license and disseminating information on the policy.

(v) August, 2019 -98 small industrial units have applied for license under the household policy of South MCD, which are being processed. The sealing drive has been initiated against 522 units who are not eligible. On the first day of the drive i.e. on 01.08.2019, 12 units were sealed and 06 units have vacated on their own. MCD officials shall complete the process at the earliest and this drive shall continue with full vigour.

(vi) It has been decided to impose Environmental Compensation on the polluting units operating in the area illegally.”

8. During the hearing, a brief note has been handed over by the learned Additional Solicitor General stating that action taken after 15.07.2019 till date is as follows:-

“1. From 15.07.2019 to 24.07.2019, 37 plastic and other polluting units have been sealed in the Sub-Division of Punjabi Bagh.

2. Five teams were constituted on 24.07.2019 to identify and seal in the villages qua plastic units.

3. Between 25.07.2019 to 29.07.2019, 92 units have been sealed out of total 263 units surveyed.

4. On 31.07.2019, five more units illegal units operating residential/non- conforming areas have been sealed.

5. 12 teams have been constituted vide order dated 31.07.2019 to carry out illegal units in residential / non-conforming areas in Delhi.

6. During 01.08.2019-03.08.2019, 181 units have been surveyed by 12 teams and 58 units have been sealed.

7. In Jahnagirpuri area, 400 tonnes of plastic waste has been removed during two days i.e. 2-3 August, 2019. The land belongs to defence.

8. The DDA has removed 627 Tonnes of plastic waste from Mangolpuri area.

9. In the coming fortnight, 12 teams will take action on large scale.

10. 1003 bighas of land has been cleared of the entire plastic waste during 12.12.2018-17.01.2019. 10766 tonnes of waste has been cleared during this period.

11. Vesting proceedings have been started against 708 bighas of agriculture land in Tikri Kalan area. 180 bighas of land has already been vested till 16.07.2019 with the Government for misuse of the agriculture land. Further land of 108 bighas has been vested after 16.07.2019.

12. 16.35 bighas of land has been put to agriculture.”

9. In view above, we direct that further action be continued and a report as on 31.10.2019 be filed before the next by e-mail at judicial-ngt@gov.in. As already directed, vide order dated 18.07.2019 in O.A No. 159/2013, Lokadhikar Sangathan vs. Govt. Of NCT of Delhi & Ors., the Oversight Committee headed by Justice Pratibha Rani, former Judge of the Delhi High Court, may furnish its final report before 31.10.2019, setting out its recommendations cumulatively at one place in a tabular form in the present case also.”

9. Accordingly, we have considered the matter further and heard the Chief Secretary who is present in person and also perused action taken report filed on 06.11.2019 by the Delhi Government inter-alia stating as follows:

“That, Environmental Damage Compensation (EDC) of Rs. 40,91,02,500/- was imposed on 115 units. Due to non-payment of EDC by these units, recovery certificates have been issued to SDM (Punjabi Bagh). List of 115 units effectively closed with amount of EDC imposed is annexed as Annexure-2.

That, further, 82 premises have also been effectively closed by the joint inspecting teams and DPCC has imposed environmental damages compensation of Rs.

38,83,85,000/- against these 82 units. List of 82 units effectively closed with amount of EDC imposed is annexed as Annexure- 3. Furthermore, for remaining units, EDC is being calculated and orders are being passed.

That, a public notice was published on 07.11.2019 in vernacular languages in newspapers wherein plastic units operating in villages unauthorized / non-conforming areas were directed to close their processes/remove their units with immediate effect. Copy of the public notice dated 07.11.2019 is enclosed as Annexure-4(colly).

That, as already informed to this Hon'ble Tribunal that study was awarded to Jamia Millia Islamia University for assessment of the environmental degradation in village like Tikri kalan, Nangloi, Mundaka, Kamuruddin Nagar, and Ghewra etc affected by plastic waste recycling and handling. The team of officials of Jamia Millia have collected soil and water samples on 02.11.2019 and will be submitting report and recommendation shortly.

Chattar Singh Rachhoya Versus North Delhi Municipal Corporation & Ors:

That, during the field visit carried out by Oversight Committee on 25.09.2019 alongwith officials of DPCC, North DMC, District Magistrate (West), Delhi Police & BSES, it was observed that no plastic processing was operating at CWC Nangloi 2 which were earlier sealed and closed as per orders passed in OA 726/2017.

Chanakya Place Residence Welfare Association Versus Govt. of NCT of Delhi & Others.

That, earlier a joint inspection was carried out by officials of South Delhi Municipal Corporation (SDMC) and Delhi Pollution Control Committee (DPCC) with respect to Original Application Number 13 of 2017. 03 units, out of 623 units which were polluting in nature were effectively closed. EDC was imposed on these 03 units and recovery notices were issued to concerned SDM due to nonpayment of EDC. 620 units are small and tiny tailoring/ embroidery and similar units. SDMC has been requested thrice to take action against these 620 units and file Action Taken Report in Hon'ble NGT directly.

N.S. Yadav & Others Versus Commissioner North DMC:

That, earlier 50 Number of units were inspected and 18 units were sealed in Naharpur Village area. EDC of Rs. 5,15,62,000/- was imposed on 18 units and EDC of Rs. 49,46,00,000/- was imposed on 32 units that

had vacated the premises after issuance of notice by North DMC. Due to non-payment of EDC, recovery certificates have been issued to SDM (Saraswati Vihar) in respect of these 50 units.

Since no cause of action survives in the present bunch of applications, the same may kindly be disposed of.”

9. Report had also been filed by MCD. The said report is only by way of filing certain documents without any narrative. The documents show that 28 vehicles were seized and certain encroachments have been removed. The applicants in person and their counsel, however, point out that the action taken is wholly inadequate and burning of plastic is continuing on the spot. It is also pointed out that certain industries are using scrap and plastic as fuel. It is further alleged that plastic burning activities have been shifted to adjoining area of Haryana near Bahadurgarh border. The Chief Secretary mentioned that about 200 Officers have been removed in Delhi under Rule 56(j) of the Civil Service Rules by way of compulsory retirement, out of about 10,000 employees engaged in the process, to bring efficiency. The prevalent inaction in the context of environmental compliance in NCT of Delhi may call for further administrative action.

10. Officers of the DPCC have stated that from the environmental compensation funds, 700 persons have been employed and 200 person each have been deputed to the Municipal Corporation as marshals. We regret to point out that the Environmental Damage Compensation (EDC) funds are not meant for giving employment. Use of the said funds by DPCC in this manner needs to be immediately stopped. Let DPCC submit the details of EDC levied and utilized till 31.12.2019 along with an action plan for its utilization for restitution/ remediation.

11. Since the action taken is not adequate and consequences of continuing air pollution on health of citizens are disastrous, posting of the supervising officers needs to be reviewed and action taken against non-performers and persons with doubtful integrity, apart from appraisal of their assessment being reflected in ACRs after following due procedure. There is also need to consider deployment of CISF when pollution levels reach sever plus and use of ISRO's Bhuvan application for detection of fire incidents in the manner it is being done by the forest department for detection of forest fires. The authorities may also consider using services of National Remote Sensing Center, Hyderabad so that such applications are utilized for further action. A dedicated helpline may be required to enable the aggrieved parties to give information about incidents of plastic burning. It is well known that such plastic burning is one of the sources of air pollution in Delhi. Adequate steps have not been taken to control this resulting in serious damage to public health and converting Delhi into a gas chamber.

12. Having regard to the rampant violations, the number of vehicles seized does not appear to be adequate. The amount of compensation recovered also does not appear to be matching to the cost of restoration which has not been assessed. Let suitable measures be taken accordingly.

13. On account of illegal plastic burning activities being shifted to State of Haryana, it is imperative that the Chief Secretary, Haryana ascertains factual position and takes remedial action and furnishes a report before the next date by e-mail at judicial-ngt@gov.in.

14. Let there be enhanced monitoring and surveillance and further action taken report filed as on 15.01.2020 by 20.01.2020 by e-mail at judicial-ngt@gov.in.

6. The matter was last considered on 20.03.2020 in the light of action taken report filed by the Chief Secretary, Haryana on 29.01.2020, report of the OC constituted by this Tribunal on 24.01.2019 in OA No. 601/2018, *Mayank Manohar & Paras Singh, Reporter Times of India vs. Govt. of NCT of Delhi & Ors.*, and other status reports. However, since it was stated on behalf of the applicants that polluting activities were still continuing causing damage to the agricultural lands, the Tribunal directed that gaps in terms of action taken and illegalities on the ground may be bridged and compensation assessed recovered. The operative part of the order is reproduced below:

“3. Accordingly following reports have been filed:-

- (i) Report filed on 13.03.2020 by SDM, Punjabi Bagh, Delhi Government.
- (ii) Report filed on 29.01.2020 by the Chief Secretary, Haryana.
- (iii) Report filed on 16.03.2020 by the Haryana State PCB
- (iv) A report has also been filed by the Oversight Committee constituted by this Tribunal on 24.01.2019 in O.A. No. 601/2018. Though the said report has been filed in O.A. No. 601/2018 which is being separately dealt with, the report being composite, and also covering the present matter, a reference may be made thereto in respect of the present matter.

4. According to status report filed by the SDM, various steps have been taken including initiation of proceedings for recovery of compensation. The summary of the status is mentioned as follows:-

S. No.	Particulars	No. of Recovery Cases	Recovery of Amount (in Crores)
1.	No. of Recovery Certificates sent by DPCC	144	44.47 Crore
2.	Recovery Certificates returned to DPCC	92	26.07 Crore
3.	Stay Order/ Review Order issued by the Hon'ble Court(s)	08	2.51 Crore
4.	Recovery done	01	0.01 Crore
5.	No. of pending cases for recovery	43	15.00 Crore

5. It is further stated that:-

“In addition to above, it is submitted that in compliance of DPCC Order No.F.DPCC/CMC-VI/NGT/OANo.56 &57/2019 /684-699 dated 26.12.2019, the SDM (Punjabi Bagh) constituted 06 Joint Teams consisting of DPCC, Revenue, MCD, Delhi Police, BSES & DJB officers /personnel vide Office Order dated 27.12.2019 for effective closure & disconnection of power and water supply of such polluting units /polluters in different villages of Sub, Division Punjabi Bagh copy Annexed as ANNEXURE-B. During the said drive, 60 polluted units were sealed and Show Cause Notices were issued to the polluters directly by DPCC on 08.01.2020 with copy to undersigned accordingly.”

6. Report of the Chief Secretary Haryana is as follows:-

“Directions have been issued under Section 144 of Cr. P.C. by the District Administration on 19.11.2019 banning burning of garbage, plastic and industrial waste in Bahadurgarh.

The Committee was constituted at District level for checking the burning of plastic in Bahadurgarh with Sub Divisional Officer (Civil), Bahadurgarh as Chairman and Estate Officer of HSVP, Senior Manager of HS/IOC and Executive Officer of Municipal Council (all having jurisdiction over Bahadurgarh) as Members and Regional Officer of HSPCB, Bahadurgarh, as Member Secretary of the Committee.

The Committee was directed to conduct regular inspections at field level and take action against the violators. The Committee was also directed to submit an Action Plan to prevent the illegal plastic burning in the area.

The Committee has been conducting regular inspections and initiating action against the violators following the

due procedure. So far 12 cases have been filed for vacating the agricultural land which is being illegally used for segregation of plastic waste. Further, action has been initiated against 58 violators in Bahadurgarh for various violations identified by the Committee. Besides the above actions, closure of 10 units found to be operating on illegal fuel was also taken up and environmental compensation against such violations is also being imposed following the 'Polluter Pays' principle (Annex.-D & E).

An Action Plan has also been prepared by the District Administration for mitigation of pollution in Bahadurgarh and is being implemented throh different stakeholder departments of the State Government.”

7. *Report of the Haryana State PCB is identical.*

8. *Report of Oversight Committee filed in O.A. No. 601/2018 is as follows:-*

“The land cleared from plastic waste dealers appeared to be not fit for agricultural purpose as it was found with 'malba' of demolished walls and left over plastic lying on the ground. To prevent the misuse of the land other than for agricultural purpose, steps should be taken by the government, if the land is vested in it, or by the owner to make it cultivable and use it only for the permissible purposes. The land now vested in the government can also be under the control of BDO with clear directions to use it for extending the green cover. This is high time that residents are associated to be 'Eye" and "Ear" of the Revenue authority and Civic Bodies. Each village may have a Committee consisting of respectable persons to keep watch that the village land is not used by owner/occupier for any other purpose except permitted under the law. The villagers can be sensitized by such Committee that any act by them in contravention of law will have the effect of vesting the land in government. A complaint box can be put near the letter box/post office of the village, wherein even an anonymous complaint alongwith photographs of the land being misused, can be put by any one to bring to the notice of the authorities about the violations going on.

The Revenue and Municipal authorities may nominate an official operating in the field, to have the feed back from the residents/villagers on periodical basis and if any illegal activity is noticed/reported immediately bring it to the notice of his superior Officers in writing. For this purpose the authorities may maintain a Register on the pattern of 'Roznamcha' maintained in the Police Stations to record any violation brought to the notice by way of written complaint (whether anonymous or otherwise) or by the villager or group of villagers. This

should be given due publicity and every year Commendation Certificates can be given to such public persons to acknowledge their contribution in checking the pollution and saving the environment. This may motivate the residents to come forward to report about the polluting activities in the area.

Incidents of fire and the cause of fire can be obtained from the nearby fire station to ascertain whether the incident of plastic burning are happening or have stopped. A meeting between DPCC/CPCB with Fire Department to share the fire incidents related to plastic waste burning which can be put on the website of DPCC/CPCB.”

9. *Learned counsel for the applicant and some of the applicants in person state that polluting activities are still continuing and damaging the agricultural lands in the area. Whenever action is taken, the polluting activities are shifted from one place to other. We permit the applicants to furnish particulars of such alleged activities to the Haryana State PCB as well as to DPCC.*

10. We also find that while action taken has been indicated, the gap in terms of illegal units still existing in the area has not been given. Further, while compensation assessed has been mentioned, steps for recovery of entire amount have not been mentioned. The amount recovered needs to be utilized for restoration in terms of an action plan with the approval of CPCB. The Haryana State PCB and DPCC may file further action taken report before the next date by e-mail at judicial-ngt@gov.in.”

7. In pursuance of the above, reports have been filed by the Delhi Pollution Control Committee (DPCC) on 31.10.2020, by the North Delhi Municipal Corporation (North DMC) on 09.12.2020 and Haryana State Pollution Control Board (HSPCB) on 03.11.2020 in OA No. 56(THC)/2013 and other connected matters. A report has also been filed by the Delhi Government on 20.05.2020 in OA No. 601/2018.

8. Report of the DPCC is that investigations were carried out against illegal units in non-conforming areas and compensation was recovered and partly utilized. Directions have been issued to the concerned authorities in the areas to ensure that illegal units are not allowed to operate in non-conforming areas.

9. The report of the North DMC is that the field staff has inspected the areas and they are taking preventive measures to stop illegal burning of plastic. The HSPCB has stated that meetings have been held and illegal PVC market has been demolished.

10. Separate report dated 20.05.2020 has been filed in OA No. 601/2018 on behalf of the Delhi Government, report dated 28.10.2020 by the DPCC, report dated 08.12.2020 by the SDMC and report dated 09.12.2020 by the North DMC. The status report of the DPCC as follows:

“ *xxx xxx xxx*
 3. *That, in compliance to the order of this Hon'ble Tribunal with regard to imposition of Environmental Damages Compensation, details of the units which were sealed in non-conforming areas in all Phases i.e. Step-1, Step-2 and Step-3 were obtained along with the date of closure and the nature of activity carried out by these units so as to categorise these units into White, Green, Orange and Red category based upon their activity.*

The Industry Department/Concerned Municipal Corporation has provided list of 1072 units sealed during Step- I, 711 units sealed during Step-II and 1415 units sealed into during Step-III. Thus, 3198 units were sealed during all three phases by the concerned Municipal Corporation of Delhi. Number of units falling in various categories namely White, Green, Orange and Red are tabulated as given below:

<i>Sr. No</i>	<i>Category</i>	<i>Number of units</i>
<i>1</i>	<i>Red</i>	<i>53</i>
<i>2</i>	<i>Orange</i>	<i>448</i>
<i>3</i>	<i>Green</i>	<i>799</i>
<i>4</i>	<i>White</i>	<i>1898</i>
	<i>Total</i>	<i>3198</i>

4. Taking the pollution potential into consideration, Environmental Damages Compensation (EDC) of Rs. 2 Lakhs, 5 Lakhs, 20 Lakhs and 50 Lakhs have been imposed on White, Green, Orange and Red Categories respectively. Show Cause Notices were issued to all the 3198 units for imposition of EDC. After issuance of Show Cause Notices, directions for imposition of EDC were issued to all the 3198 units in July 2020 to Sept 2020. The Corporation wise and Step wise details of EDC imposed against the 3198 units are as given below:-

Name of Municipal Corporation	Step-I			Step-II			Step-III			Total of Step-I, Step-II & Step-III		
	No. of Units	No. of Units on which EDC is imposed	Total amount of EDC imposed (In Lacs)	No. of Units	No. of Units OD which EDC is imposed	Total amount of EDC imposed (In Lacs)	No. of Units	No. of Units on which EDC is imposed	Total amount of EDC imposed (In Lacs)	Total No. of Units	No. of Units on which EDC is imposed	Total amount of EDC imposed (In Lacs)
East DMC	274	274	890	127	127	254	494	494	3394	895	895	4538
North DMC	690	690	4869	360	360	1602	617	617	4840	1667	1667	11311
South DMC	108	108	357	210	210	1020	304	304	2111	622	622	3488
Delhi Cantt Board	0	0	0	12	12	60	0	0	0	12	12	60
New Delhi MC	0	0	0	2	2	4	0	0	0	2	2	4
Grand Total	1072	1072	6116	711	711	2940	1415	1415	10345	3198	3198	19401

5. Many units had mentioned their inability or delay in depositing the EDC due to Covid- 19 Pandemic and low economic activity during last few months since March 2020. They have also mentioned that unprecedented health crisis and emergency coupled with steep downfall in the revenue earning due to lockdown which has brought down the economic activities to the lowest level. Till date, only 13 units had deposited EDC.

6. All three Municipal Corporations (i.e. EDMC, SDMC & NDMC) were requested to provide bank details etc. of all units sealed in Step-I, Step-II & Step-III as these units have to file property tax etc. to the concerned Municipal Corporations so that coercive action of attachment of bank account of the units may be taken in case of their failure to deposit EDC. In this regard, reminder letters to Municipal Corporations were issued on 23.10.2020 (Copies of letters dated 23.10.2020 are enclosed herewith and annexed at Annexure-2 (Cully)).

7. Recovery certificate are being issued to the Concerned Revenue Officials to recover the amount as arrears of land revenue in due course from the units which have not deposited Environmental Damages Compensation (EDC).”

11. The report of the SDMC is on same pattern as follows:

4. That the sealing action taken in respect of illegal units under Step-1 was completed by 26.11.2018 and status report is as under:

Step-I

Total units (To whom plots were allotted)	Found vacant/closed during survey	Units found running which closed after Show Cause Notice	NO. of units sealed

4961	3841	913	207 (160+47 *)
			*47 sealed later during re-inspection in 2019

5. It is submitted that a number of 91 units, under Step-1, were reported to be working and such a re-survey was conducted in July 2019 and 47 units which were found to be running in violation, were sealed. Again a survey in most of the units was carried out by the Constituted Joint Teams w.e.f. July to October 2020 wherein no illegal activity was found. Inspection report, and photographs obtained during the course of inspections/survey have been prepared by concerned Zonal Inspection Teams of SDMC. Some of the photographs/ inspection reports, as an illustration / samples are being filed herewith as Annexure-A2 (Colly) while undertaking to produce the same before the Hon'ble Tribunal, if so directed.

6. That in respect of Step-11, the industrial units which applied for industrial plots but were rejected or surrendered, these units were closed down as submitted earlier by 30.01.2019 and the details are being filed as below:

Step-II

Total units (Applicants and Rejectees in Relocation scheme)	Found vacant/closed/ Permitted use during survey	Sealed (Found no Change in sealed status in resurvey)	Re-Development industrial area
7275	6081	258	936

7. However, some units were reported working inspite of being sealed. Accordingly, the re-survey was carried out during the period of June-October 2020 by the Special Constituted Teams. The photographs taken by the Inspecting Teams are filed as illustration at Annexure A-3. However, the units under Step-11 are lying closed/sealed/vacated. The record of such units is being maintained by the Corporation and shall be produced before Hon'ble NGT as and when so directed.

8. It is submitted that aforementioned 936 units fall within the the jurisdiction of Re-development Industrial Area and vest with DSIIDC and are governed by Delhi Industrial Development Operation & Maintenance Act, 2010. As per the stand taken by DSIIDC, Delhi Government, the Hon'ble Supreme Court which is seized of the matter related to Re-development Industrial areas, that these units are not required to be sealed. In view of this, no action at present is required to be undertaken in respect of Step-1 & II units by answering Respondent. However, the Answering Respondent will take further action if violation is detected in future.

9. That in respect of Step-III, periodical survey and inspections are being carried out by the Zonal Inspection Teams constituted for this purpose, on regular basis and is an ongoing process. However, it is further submitted that survey in respect of left out illegal industrial

units in the area of Matiala, Kakrola and Nasirpur was carried out during the period Jan-Feb 2020 and again during October November 2020 by Zonal inspection teams. During this survey, 212 premises were surveyed out of which 27 illegal units were sealed by SDMC. As on date, a number of 6034 units were identified under Step-III out of which 3610 were closed after issue of Show Cause Notice and 377 illegal industries were sealed, which failed to close their trade on their own. A number of 1079 have applied for household license being non-polluted industry.

Besides the above, 580 units fall under Re-development Industrial area of west Zone and in 388 units of Basai Darapur, wherein, the Hon'ble High Court has granted stay order against coercive action vide order dated 04.03.2020 in WP C No. 2522/2020. Brief of above is provided in the table given below:

10. Apart from this, under House Hold Scheme, 1860 number of applications have been received which includes 1079 units of StepIII also. Out of which 398 number of applications have been approved and 1237 number of applications have been rejected as per the following details. The Closure action on 1237 units is initiated already and shall be completed before 31st December. However, it is pertinent to mention that these Household Units are carrying out non-polluting activities of 121 trades specified in Category A & A-1 of MPD-2021 (Annexure A-4). Most of the Household applications were rejected to the nonfulfilling requisite parameters envisaged in the policy and eligibility criteria given in MPD-2021 Chapter-7.

11. That strict vigilance will be maintained by the Answering Respondent, SDMC through the Special joint inspection teams constituted by Dy. Commissioners of Zones, with respect to compliance of the closure of polluting units in residential and nonconforming areas falling under the jurisdiction of SDMC in accordance to the orders passed by the Hon'ble Supreme Court and Hon'ble National Green Tribunal.”

12. Report of the North DMC is as follows:

“3. That the inspection and survey of the industrial units is an ongoing process which is being carried out by the Answering Respondents on regular basis. However, the competent authority has constituted Special Zonal Inspection Team (SZIT) comprise of Zonal Licensing Officials, Rent Collector Engineers, BSES officials, DJB officials and Police Officials (For sensitive areas), inspected the industrial units in question falling under Step-I, Step-II & Step-III of such units and to take appropriate action in accordance with the law and as per directions of Hon'ble NGT dated 19.11.2019. Copies of the orders passed from time to time are filed as Annexure A-1 (Colly).

4. That the sealing action taken in respect of illegal units under Step-I was completed by 26.11.2018 and position of Step-I units were as under:

S. No	Total Step-1 data	Units Closed/Found Vacant	No. of Units Sealed	Action Taken Units
1	12294	11604	690	12294

5. A re-survey of above said units was carried out by the Constituted Special Zonal Inspection Team w.e.f. July 2020 to October 2020 wherein no illegal activity was found as noticed on 26.11.2018. During the inspection/ survey photographs of sealed/ closed/ vacant units were taken and some of the photographs of such units annexed herewith as Annexure-A2 (Colly) while undertaking to produce the same before the Hon'ble Tribunal, if so directed.

6. That in respect of Step-II units i.e. the industrial units applied for industrial plots but were rejected or surrendered, it is intimated that these units were closed down/ sealed as submitted earlier by 30.01.2019 as under:-

Step-II

S. No	Total No. of units falling into jurisdiction	No of Units allowed shift/vacate industrial activity during the drive of closure (during 26.1.1.2018 to 04.02.2019)	Units operating from industrial clusters notified for re-development under chapter 7.6 of MPD-2021	Total No. of Units already closed/ found operating during the drive of closure.	Actual units sealed in step-II
1	15974	5256	2349	8009	360

7. A re-survey of above said units was carried out by the Constituted Special Zonal Inspection Team w.e.f. July 2020 to October 2020 wherein no illegal activity was found as noticed on 30.01.2019. It is submitted that aforementioned 2349 units fall within the jurisdiction of Re-development Industrial Area and vests with DSIIDC and are governed by Delhi Industrial Development Operation & Maintenance Act, 2010. As per the stand taken by DSIIDC, Delhi Government, the Hon'ble Supreme Court is ceased of the matter related to Re-development Industrial areas and these units are not required to be sealed.

8. It is pertinent to mention here that some units were reported working inspite of being sealed. Hence, the re-survey was carried out during the period of June 2020 to October 2020 by the Special Zonal Inspection Team and found that no unit found running after sealed earlier. During the inspection/ survey under Step-II, photographs of sealed/ closed/ vacant units were taken and some of the photographs of such units with date annexed herewith as Annexure-A3 (Colly) while undertaking to produce the same before the Hon'ble Tribunal, if so directed.

9. As per the survey report, the Step-II units are still lying closed/sealed/vacated (Record). The record of such units is being maintained by the Corporation and shall be produced before Hon'ble NGT as and when directed.

10. That in respect of Step-III, periodical survey and inspections have been carried out by the Special Zonal Inspection Team constituted for this purpose, on regular basis from July 2020 to October 2020 and it is an ongoing process. The details of Step-III survey:

Step-III

Sr. No.	Description	No of units	Remarks
1	Total illegal units found	5757	-
2	Units closed after Notice	4640	-
3	Units applied Under Household License	500	Small Household units (Non Polluting)
4	Illegal units sealed	617	-

During the inspection/ survey under Ste-III, photographs of sealed/ closed/ vacant units were taken and some of the photographs of such units with date annexed herewith as Annexure-A4 (Colly) while undertaking to pr duce the same before the Hon'ble Tribunal, if so directed.

11. Apart from this, under House Hold Scheme, 1148 number of applications have been received under which the above mentioned 500 Household units of Step-III also included. The present status of Household units is as under:-

Total No. of Household applications	Total No. of Household applications rejected	Total No. of Household applications Approved	Total No. of Household applications in process
1148	1043	04	101

12. Out of total 1148 Household applications, 04 numbers of applications have been approved and 1043 number of applications has already been rejected. The Closure action on 1043 units is initiated already and shall be completed before 31st December 2020. However, it is pertinent to mention that these Household Units are carrying out non-polluting activities of 121 trades specified in Category A & A-1 of MPD*2021 (List Annexure A-5). Most of the Household applications were rejected due to non-fulfilling of the requisite parameters envisaged in the policy and eligibility criteria given in MPD-2021 Chapter-7.

13. That strict vigilant watch will be maintained by the Answering Respondent, North DMC through the Special Zonal Inspection Team constituted by Dy. Commissioners of Zones, with respect to compliance of the closure of polluting/ illegal units in residential and non-conforming areas falling under the jurisdiction of North DMC in accordance to the orders passed by the Hon'ble Supreme Court and Hon'ble National Green Tribunal.”

13. The matter having been monitored before this Tribunal for more than seven years, we do not find it necessary to keep the matter pending for indefinite period. It is for the statutory authorities to continue further steps for enforcement of environmental norms as per law. In view of order dated 20.3.2020, disposing of the final report of the OC headed by Justice Pratibha Rani, former Judge, Delhi High Court, further monitoring will be in terms of order of the Hon'ble Supreme Court in M.C. Mehta (supra), by the Chief Secretary, Delhi.

14. Accordingly, we close the proceedings with hope and expectation that the concerned authorities will take necessary steps for maintaining environmental norms. There has to be continuous vigil against causing of pollution, particularly burning of plastic and other waste for protection of environment and public health. The amount of compensation recovered must be properly utilized for legitimate purpose with the approval of the CPCB, as already directed. If there is any violation of environmental norms, the aggrieved party will be free to take remedies as per law, as and when necessary.

All the applications will accordingly stand disposed of. Pending IAs/MAs will also stand disposed of.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

December 10, 2020
Original Application No. 56(THC)/2013
with other connected matters
DV

To

The Ex. Maji-Cen CDMA-Nangla
Kangal Bg.
Distt. Sahib N.P.W.

21/7/21
Nangla

Subject of: Violation of N.G.T. order no 59/73
in your territorial jurisdiction
R/Adm.

Receipt
Govt. of NCT of Delhi
Office of SDM (Punjab)
Main Rohtak Rd
Nangloi, Delhi-110041

Despite of above mentioned order
passed by A/c N.G.T., there are continue illegal
Anti-Env't activities in notified area of Mundra,
Tikri-taller, Santals, Batawara, Nidhi, Kermunda
etc in form of polythene barrier, Pooja,
Chumpla, segregation, recycling in broad area

Whereas, this sub is adamant & selfish
over far exceed, Complainant/Part II under threat
Hence you are requested to immediately
visit case then above noted violation at ground
& provide ATR to us

Co to y self (lead) Shanti Ti
" / Medu Sheriff/Comp
M E T A L E R I E
(9958743317)

सेवा में,

दिनांक : 26/8/2021

श्रीमान चीफ सेक्रेटरी महोदय ,

दिल्ली सचिवालय , आई पी एस्टेट , नई दिल्ली - ११०००२

श्रीमान ~~...~~ ^{मेमबर} सेक्रेटरी महोदय,
बिल्डिंग , ४ और ५ तल आई एस बी टी , जी टी करनाल रोड,
कश्मीरी गेट , नई दिल्ली - ११०००६

विषय: रान्होला और आस पास के इलाको में प्रदूषण से लोग परेशान और दिल्ली प्रदुषण कंट्रोल समिति बिना जाँच के प्रमाण पत्र बाटे जा रहे हैं/ कार्यवाही हेतु/
मान्यवर,

सविनय निवेदन यह है की हमारे गाँव रान्होला में जो फेक्टोरिया २०१९ में प्रदुषण के कारण बंद कर दी थी / जिन्हें दिल्ली प्रदुषण कंट्रोल समिति ने फिर से नए लाइसेंस देना सुरु कर दिया है/ ये कैसे संभव है/ नीचे दिए गए निम्नलिखित शिकायत इस प्रकार हैं:-

१. जो फेक्टोरिया २०१९ में प्रदुषण के कारण बंद कर दी थी/ उनके दोबारा लाइसेंस बनाने शुरु कर दिए हैं/ जैसे :- प्लास्टिक टॉयज, प्लास्टिक टायर, कुरकुरे बनाना, पी, वी, सी दाना बनाने की फेक्टरी अभी चल रही है/
२. जो फेक्टरी रेड केटेगरी की है उसे सफेद category का लाइसेंस दिया जा रहा है /

आपसे अनुरोध है की लोगो को बरगलाया जा रहा है / और विभाग से जुड़े लोग बिचोलिया बनके विभाग को बदनाम किया जा रहा है / सम्बंधित अधिकारी को बदला जाये / ये सब पूरी दिल्ली में फेक्टोरियो की सिमितियो के द्वारा चल रहा है / इस समस्या पर तुरंत कार्यवाही की जाये /

Rejeel
भवदीय

(राजीव कुमार)

श्री राजेंद्र सिंह

मकान न. ४४ गाँव रान्होला , दिल्ली - ११००४१

मोब.न. 9811135111

Rejeel

26/8/21
o/o Member Secretary (DPCC)
Govt. of N.C.T. of Delhi
Delhi Secretariat, New Delhi-2

16-06-2022



श्रीमान उपराज्यपाल महोदय,
राजनिवास दिल्ली

विषय: - नाँगलोरि से टिकरी बार्डर तक भयंकर प्रदूषण
मान्यवर,

हमने 12 साल दिल्ली उच्च न्यायलय और राष्ट्रीय हरित प्राधिकरण में मुकदमा भी चला लिया लेकिन प्रदूषण बढ़ता ही गया। कुछ कानून भी बने और दिल्ली - सरकार पर 25 करोड़ रुपये का जुर्माना भी लगा। यहाँ ऐसे - 2 गैर - कानूनी ब्यारवाने और गोदाम हैं जिन पर मालिक का नाम, रजिस्ट्रेशन नं., प्लॉट नं., कार्य की प्रकृति वगैरा कुछ नहीं लिखा है। प्लॉट का कबाड पूरे देश से और पूरी दुनिया से यहाँ आता है। पी. वी. सी. बाजार टिकरी कलाँ में तो सब कुछ गैर - कानूनी है। स्थानीय थाना और नाँगलोरि रजि. डी. रजि. की मोटी कमाई इससे है। सारा कबाड खले में पड़ा है। पिछले साल बरसात के दिनों में आग लगी तो पूरी दिल्ली की आग बुझाने वाली गाड़ियाँ बुलाई गईं। तीन दिन तक प्यु आ उठता रहा। मुँडवा में पिछले माहने 27 आदमी जलकर मरे। रजि. डी. रजि., रजि. रजि. ओ. जो तो यहाँ से जाकर दयाना चौहल धा 1995874331

निवेदन
महावीर सिंह निलव लॉ गांव
दिल्ली

To,

Dated: 16-06-2023

Chairman,

Environment Pollution (Prevention & Control) Authority
 M74V+ 9 W3 East Arjun Nagar, Arjun gali , Vishwas Nagar,
 Shahdara, Delhi 110032

Mahavir Singh &
 Satish
 N/S
 Union of India

Subject: Case no 56-57/2013 transfered from High court.

Respected sir,

I Mahavir singh S/O Sultan Singh, R/o Village Neelwal Delhi 110041 request you that plastic waste is again everywhere in area from Nangloi to Tikri boarder. We suggested the hon'orable court many times that plastic factories should be closed in Delhi and the plastic waste should not be allowed to enter at any cost because it is coming from all over India and abroad on large scale. PVC should be transferred out of NCR.

The responsibility should be fixed on those who do not follow the hon'orable NGT rules. They should be penalised heavily. The polluted plastic factories are running on large scale in the so called industrial areas like Naresh Park, Nangloi , Mundka ,Ranhola, Ranikheda Kanjhawala , Tikri , Ghewra, Hiran kudna, Kair, Jhadoda, Nilothi, Kamarruddin Nagar ,Tilang pur kotla, Bakkarwala. Polluting factories are running from Bahadur Garh to Sampla Haryana.

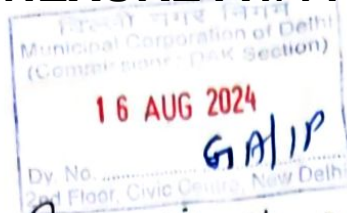
They never follow the pollution rules. We the residents of Delhi often see the clouds of smokes which come from Haryana. Fire is very common in the PVC and the adjoining area. After segregation they burn the waste which is of no use. The plastic waste is also in the border villages of Haryana and Delhi. The illegal factories of all kinds of pollution never mention the owner's names, type of works, plot no or khasra no. etc.

It is the necessity of time that the data index of all the polluters should be prepared by the Govt. agencies in the supervision of court. Please take stern action against these polluters.

My name should not be disclosed. Mahavir Singh
 Yours sincerely
 My life is in danger -

(Mahavir Singh)
 Petitioner

S/o Late Sh. Sultan Singh, Village Neelwal , West
 Delhi Delhi 110041, Mob no. 9958743317



16-08-2024
श्रीमान कमीशनर साहब,
दिल्ली नगर-निगम,
सिविक सेंटर नई दिल्ली

विषय :- टिकरी कलाँ गाँव में बड़े पैमाने पर अवैध निर्माण
और वहाँ से गन्दा पानी नीलवाल गाँव डालने की साक्षिणा

मान्यवर, दिल्ली प्रशासन, पुलिस व नगर-निगम के सहयोग
से टिकरी कलाँ गाँव की कृषि-भूमि पर गाँव नीलवाल की सीमा
तक पूरे जोर-शोर से कॉलोनिजों व गोदाम बनाये जा रहे हैं।
क्याच पूरी दुनिया में ऐसा जंगलराज नहीं होगा, जैसा हमारे
इलाके में है। कितनी शर्म की बात है कि सुभाष विहार नाम
के स्वयंभू औद्योगिक क्षेत्र व इन कॉलोनिजों के गन्दे पानी को
घेवरा मोड़ से नाला बनाकर नीलवाल गाँव में डालने का
घडपन्था रचा जा रहा है। हम इसे बिल्कुल बर्दास्त नहीं
कर सकते और न ही ऐसा होने देंगे। पहले ही टिकरी कलाँ
के खेतों, पारों, पेशों, प्लारों, गोदामों में व पी. वी. सी. बाजार
के प्लास्टिक कबाड़ में बार-बार आग लगाने से भयंकर
प्रदूषण रहता है। लोग अनेक बीमारियों से ग्रसित हैं।
घेवरा मोड़ से आने वाली सड़क पर बने गोदामों में आना-
जाना मुश्किल कर दिया है। इसलिए इन कॉलोनिजों व
गोदामों को तुरन्त बंद कर दिया जाय।

1. महावीर सिंह 9958743317
2. शैलेंद्र कुमार 9354012402
3. देवेंद्र सिंह 9971145224
4. अश्वनीर सिंह 995304318

Sd/-
Rohit

9211139779

122

(कृपया पन्ना पलाटयें)

निवेदक
नीलवाल गाँव वासी
नई दिल्ली-110041

- | | | | | | |
|----|---------------------|-------------|----|----------------|-----------------|
| 5 | Narash Kumar | 8310073818 | 31 | Jai Lal Singh | 9268463448 |
| 6 | क. र. उ. म. म. म. | | 32 | म. म. म. म. म. | 8750897608 |
| 7 | च. न. र. म. म. | 9212022392 | 33 | Navleen Dhall | 8459910622 |
| 8 | ज. च. द. व. म. म. | 9211318552 | 34 | Sunny Dhall | 9599708055 |
| 9 | प. म. म. म. म. | 9999135218 | 35 | Jaswant | 9654160660 |
| 10 | ज. म. म. म. म. | | 36 | Sarv Ram | 9990191385 |
| 11 | स. म. म. म. म. | | 37 | Ar. G. M. M. | 9250121363 |
| 12 | व. म. म. म. म. | 8076237180 | | र. म. म. म. | 9210718695 |
| 13 | Sandeep Dhall | 8700901284 | | Pawan | 7982181693 |
| 14 | र. म. म. म. | 8587937824 | | Hairsh | 9250507323 |
| 15 | Satoor | 9818939030 | | Sunil | 8800836157 |
| 16 | Bijender Singh | 9212395088 | | Akash | 9910971977 |
| 17 | Rajpal Singh | 9999004530 | | Deepak | 8130083545 |
| 18 | ANSHU DRALL | 8860965603 | | म. म. म. म. | 921213052 |
| 19 | म. म. म. म. | र. म. म. म. | | Chet | 95604324432 |
| 20 | र. म. म. म. म. | 9250803262 | | म. म. म. म. | 9718128251 |
| 21 | र. म. म. म. म. | 8920016180 | | Amir | 9540000186 |
| 22 | Dilwagh Singh | 9717314440 | | म. म. म. म. | 9250615218 |
| 23 | म. म. म. म. | 9958421220 | | Rohit Kumar | 9211352192 |
| 24 | Jalbir | 7678478838 | | प. म. म. म. | 9350731271 |
| 25 | Manoj | 8750569749 | | र. म. म. म. | 989925772 |
| 26 | Ajit Singh | 9211069648 | | क. म. म. म. | 9268046742 |
| 27 | Sunil | 8527560886 | | Sahab | 9599631340 |
| 28 | Shrikrushna | 9213737644 | | Ramch Sah | 9310326333 |
| 29 | Phool Singh | 9278019650 | | PRAVEEN | 7042449341 |
| 30 | J. M. S. / S. M. M. | 9213502057 | | म. म. म. म. | 929116783592770 |
| | | | | N. Singh | 9871990972 |